

OFFICE OF STATE SUPERINTENDENT
Summary of State Board of Education Agenda Items
March 14-15, 2013

OFFICE OF STATE SUPERINTENDENT

14. Approval to begin the Administrative Procedures Act process: To revise State Board Policy – 1404 – Meetings

The suggested changes to State Board Policy 1404 – Meetings are underlined in bold.

Recommendation: Approval

Back-up material attached



Mississippi Department of Education

DESCRIPTOR TERM: Meetings	CODE: 1404
ADOPTION DATE: July 2, 1984	REVISION: February 16, 2007

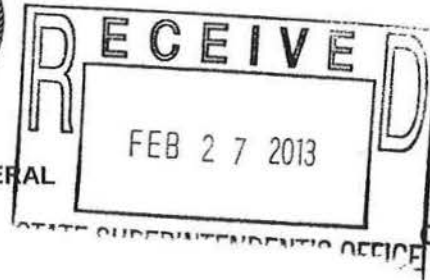
STATE BOARD POLICY

1. The State Board of Education shall meet on the third Friday of each month at 8:30 o'clock a.m. in the Fourth Floor Board Room of the Central High School Building, Jackson, Mississippi. No further notice shall be made for regular monthly meetings.
2. Work sessions shall be scheduled at 10:00 o'clock a.m. on the Thursday prior to the regularly scheduled monthly meeting.
3. The Board may change or alter its meetings time or place by noting the change in the minutes.
4. **Any member of the State Board of Education may participate in an official meeting of the Board by teleconference or video means. The public has access to the meeting in the Fourth Floor Board Room of the Central High School Building, Jackson, Mississippi.**

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL



February 22, 2013

Lynn J. House, Ph.D.
Interim State Superintendent of Education
State Department of Education
P. O. Box 771
Jackson, MS 39205

Re: Open Meetings

Dear Dr. House:

Attorney General Jim Hood received your request on behalf of the State Board of Education ("Board") and assigned it to me for research and response.

Issue Presented

Is the five-day notice requirement for teleconference meetings satisfied by a Board policy that provides that (1) any member of the State Board of Education may participate in an official meeting by teleconference and (2) the public has access to the meeting room where the meeting is being conducted?

Response

Yes. The formal adoption of a policy, which provides that (1) any member of the State Board of Education may participate in an official meeting of the Board by teleconference or video means, and (2) the public has access to the meeting in the location already designated in the board's Policy 1404 and its annual schedule of meetings, will satisfy the notice requirements for teleconference meetings.

Background

In your letter you state that Mississippi Board of Education Policy 1404 provides:

1. The State Board of Education shall meet on the third Friday of each month at 8:30 o'clock a.m. in the Fourth Floor Board Room of the Central High School Building, Jackson, Mississippi. No further notice shall be made for regular monthly meetings.
2. Work sessions shall be scheduled at 10:00 o'clock a.m. on the Thursday prior to the regularly scheduled meeting.

3. The Board may change or alter its meeting time or place by noting the change in the minutes.

Further, you advised that the Board annually approves a schedule of meeting dates that includes variations from the third Friday. The policy and the annual schedule provide the public with a five-day notice of the date, time, place and purpose of the meetings.

Applicable Law and Discussion

The general notice requirements for public meetings are found in Section 25-41-13(1) and (2) of the Mississippi Code which provide:

(1) Any public body which holds its meetings at such times and places and by such procedures as are specifically prescribed by statute shall continue to do so and no additional notice of such meetings shall be required except that a notice of the place, date, hour and subject matter of any recess meeting, adjourned meeting, interim meeting or any called special meeting shall be posted within one (1) hour after such meeting is called in a prominent place available to examination and inspection by the general public in the building in which the public body normally meets. A copy of the notice shall be made a part of the minutes or other permanent official records of the public body.

(2) Any public body, other than a legislative committee, which does not have statutory provisions prescribing the times and places and the procedures by which its meetings are to be held shall, at its first regular or special meeting after July 1, 1990 spread upon its minutes the times and places and the procedures by which all of its meetings are to be held.

There are no specific statutory provisions which prescribe the times, places and procedures by which the Board's meetings are held other than the requirement in Section 37-1-1 that "[t]he board shall meet regularly once a month at such time as shall be designated by an order entered upon the minutes thereof."

The adoption of Policy 1404 and the annual approval of meeting dates, which vary from the dates in Policy 1404, satisfies the requirements of Section 25-41-13 as long as these actions are recorded in the Board's minutes.

With regard to the special notice requirements for teleconference meetings, Section 25-41-5 of the Mississippi Code provides in part:

(2)(a) A public body may conduct any meeting through teleconference or video means. A quorum of a public body as prescribed by law may be at different locations for the purpose of conducting a meeting through teleconference or video means provided participation is available to the general public at one or more public locations specified in the public meeting notice.

* * *

(3)(a) Notice of any meetings held pursuant to subsection (2) of this section shall be provided at least five (5) days in advance of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify all locations for the meeting available to the general public. All persons attending the meeting at any of the public meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Any interruption in the teleconference or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

(b) Five-day notice shall not be required for teleconference or video meetings continued to address an emergency as provided in subsection (5) of this section or to conclude the agenda of a teleconference or video meeting of the public body for which the proper notice has been given, when the date, time, place and purpose of the continued meeting are set during the meeting prior to adjournment.

(Emphasis added).

The policy contemplated by the board will provide at least a five-day notice that meetings of the Board may be conducted as teleconference meetings and will provide notice that the public may attend the meeting at the location already designated in Policy 1404 and the annual schedule of meetings. Approval of these actions is required to be recorded in the Board minutes and, as such, will be available for public inspection.

Conclusion

It is the opinion of this office that the formal adoption of a policy, which provides that (1) any member of the Board may participate in an official meeting of the Board by teleconference or video means, and (2) the public has access to the meeting in the location already designated in Policy 1404 and the annual schedule of meetings, will satisfy the notice requirements for teleconference meetings in Section 25-41-5.

While not required for the Board's regular meetings described herein, this office encourages public bodies to provide additional notice of meetings by various means, e.g., announcement of notice of a subsequent meeting during a current meeting; posting a meeting notice on the public body's web site; posting a meeting notice in the building in which the public body regularly meets, etc.

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

By:



Chuck Rubisoff
Assistant Attorney General