

**NOTICE OF MEETING OF THE
MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD**

NOTICE is hereby given of a meeting of the Mississippi Charter School Authorizer Board to be held on Monday, October 30th, 2017 beginning at 12:30 p.m. at the Mississippi Charter School Authorizer Board offices located at 239 N. Lamar Street, Suite 207, Jackson, MS 39201. Participation at this meeting may be by teleconference at locations different from the above location pursuant to Miss. Code Ann. §25-41-5(2013) with participation being available to the public at the location set forth above. The purpose of the meeting is to conduct the regular business of the board as set forth in the attached draft agenda.

This the 22nd day of October 2017.

BY: Marian Schutte
Executive Director

DRAFT AGENDA
MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD
October 30, 2017

- I. Call to order
- II. Adoption of the Agenda
- III. Approval of Minutes of the September 11th meeting
- IV. Chair Report
- V. Executive Director's Report
- VI. Committee Reports
 - a. Applications Committee
 - b. Performance and Accountability Committee
- VII. New Business
 - a. Charter School Contracts
 - i. Clarksdale Collegiate
 - b. 2018 Board Meeting Calendar
 - c. Public Records Policy
 - d. Contract Amendment Policy
 - e. 2017 Charter Schools Program Grant Award
 - f. FY18 Budget Revisions
 - g. Approval of Invoices
 - h. Board Committees
- VIII. Public Comment
- IX. Executive Session
- X. Next Meeting
 - a. Board Meeting – December 4th
- XI. Adjourn

MINUTES OF THE
MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD
Regular Monthly Meeting
Monday, September 11th, 2017

The regular monthly meeting of the Mississippi Charter School Authorizer Board was held at 10:00 a.m. on Monday, September 11th, 2017, at the Mississippi Charter School Authorizer Board Office located at 239 N. Lamar Street Suite 207, Jackson, MS 39201. In attendance were:

Krystal Cormack, Chair
Tommie Cardin
Chris Wilson
Dr. Carey Wright

Participating via teleconference were:

Dr. Karen Elam
Dr. Jean Young

Executive Director Marian Schutte also participated in the meeting. Mr. Leland Speed was unable to participate.

The meeting was called to order at 10:08 am.

ITEM I. ADOPTION OF THE AGENDA

A. Adoption of Agenda

The Agenda was previously circulated to all Board members for review.

Chair Cormack requested a motion to approve the agenda as presented.

MOTION: Mr. Cardin

SECOND: Mr. Wilson

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

ITEM II. APPROVAL OF THE MINUTES

A. Approval of Minutes of the July 10th Board Meeting

The minutes of the July 10th, 2017 board meeting were previously distributed to the Board members for review.

Chair Cormack requested a motion to approve the minutes of the July 10th, 2017 board meeting as presented.

MOTION: Mr. Wilson

SECOND: Dr. Elam

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

ITEM III. CHAIR REPORT

Chair Cormack welcomed the members of the public to today's board meeting. She thanked board members for continuing board business in July while she had the opportunity to travel to New York this summer with her family.

Chair Cormack then shared that the Authorizer Board has hosted several public hearings as part of the 2017 Request for Proposals process. She facilitated a public hearing in both Canton and Drew. Mr. Wilson also facilitated a hearing in Clarksdale as well. She noted that for board members who were unable to attend the hearings that the hearings from this cycle were the most well attended so far. She also shared that the board had received a substantial amount of written comment that was shared with board members in advance of today's meeting.

ITEM IV. EXECUTIVE DIRECTOR'S REPORT

Ms. Schutte welcomed board members and members of the public to today's Authorizer Board meeting. She noted that new technology was in place for the board meeting and she hopes it will help with board members when they call in as well as assist the public in hearing all board members during the meeting.

First, she welcomed the Authorizer Board's new Deputy Director, Stewart McMillan. She is from Tupelo, Mississippi, and previously taught 5th and 6th grade English/Language Arts at a charter school in Nashville, Tennessee. Most recently, she worked at the Achievement School District as a member of Tennessee's education reform movement. Ms. Schutte noted that Stewart will be working on the Performance and Accountability side of the office. She will work with schools directly after they're approved and also work with MDE as well. She's very excited to begin her role here at the Authorizer Board and looks forward to meeting you all in person today.

Second, Ms. Schutte shared that the Authorizer Board still had not heard any news on the Charter Schools Program grant application that MCSAB submitted in May. She doesn't anticipate that MCSAB will know until the last day of the month.

Third, Ms. Schutte shared that work had kicked off regarding the communications strategy proposal. She thanked all board members for completing the survey distributed by Mississippi First. She noted that she is working on scheduling to potentially avoid having two meetings somewhat back to back and she will notify board members via email to schedule the upcoming meeting.

Finally, Ms. Schutte shared information about the National Association of Charter School Authorizers conference located in Phoenix from October 16th to October 19th. She asked that if any board member is interested in attending to let her know so that she can make travel arrangements. Ms. Schutte shared that

she has been asked to present on two panels regarding operator recruitment and streamlined charter school application processes at the conference.

ITEM V. COMMITTEE REPORTS

A. Applications Committee

Dr. Elam presented the results of the 2017 Request for Proposals process through the Stage 3: Independent Evaluation Team Review. MCSAB partnered with the National Association of Charter School Authorizers to conduct an independent evaluation of the charter school proposals received during the 2017 Request for Proposals process. The Authorizer Board received recommendations from NACSA and will base its decision on NACSA's recommendations, the proposals, the capacity interviews, and the applicant's written response to the independent evaluation.

In 2017, MCSAB received a significant amount of interest in the charter school proposal process. Mississippi First offered and provided technical support to all applicants who created FluidReview accounts. At MCSAB's June meeting, four proposals were deemed complete and eligible to move on to Stage 2 of the 2017 RFP process. They were: Clarksdale Collegiate (K-8 in Clarksdale Municipal School District); KC Schools Inc. (PK-12 in South Pike School District); Shades of Elegance (K-8 in Sunflower County Consolidated School District); and SR1 (K-12 in Canton Public School District). At MCSAB's July meeting, three proposals were deemed minimally adequate and were moved to Stage 3 of the 2017 RFP process. These three applicants were: Clarksdale Collegiate, Shades of Elegance, and SR1.

During Stage 3 of the process, the independent evaluation team assesses full proposals against the evaluation criteria. The independent evaluation team reads the full proposal and then conducts an in-person capacity interview. They then form a recommendation after assessing and rating proposals against the criteria. Each proposal receives a rating in Educational Program Design and Capacity, Financial Plan and Capacity, and Operations Plan and Capacity as well as an overall recommendation for approval or denial. In order to receive a recommendation for approval, a proposal must receive a rating of "Meets the Standard" in all three of the evaluated areas. During the 2017 RFP cycle, one proposal received a recommendation for approval: Clarksdale Collegiate. Clarksdale Collegiate received a "Meets the Standard" in Educational Program Design and Capacity, Operations Plan and Capacity, and Financial Plan and Capacity. Clarksdale Collegiate was recommended for approval by the Applications Committee.

Two proposals received recommendations for denial: Shades of Elegance and SR1. Shades of Elegance received a "Partially Meets the Standard" in Educational Program Design and Capacity and a "Does Not Meet the Standard" in Operations Plan and Capacity and Financial Plan and Capacity. SR1 received a "Partially Meets the Standard" in Educational Program Design and Capacity, Operations Plan and Capacity, and Financial Plan and Capacity. Shades of Elegance and SR1 were recommended for denial by the Applications Committee.

B. Performance and Accountability Committee

Mr. Wilson noted that the Performance and Accountability has met and will present the initial draft of the 2017 Annual Report during New Business.

ITEM VI. NEW BUSINESS

A. 2017 Annual Report: Initial Version

Ms. Schutte shared that the initial version of the 2017 Annual Report was previously distributed to Board members for review. She noted that this report is similar to the style of the 2016 Annual Report and is pending all data from the 2016-2017 school year. She noted that the report gives some demographic information about charter schools in Mississippi as well as an overview of the charter school landscape. The initial version of the 2017 Annual Report is before the board today due to the Board's legislative mandate that it submit the annual report to the Legislature by October 1. The board will update the report and approve it at its December or January meeting after all data are received and any analysis has been completed.

Chair Cormack requested a motion to approve the 2017 Annual Report as presented.

MOTION: Mr. Cardin

SECOND: Dr. Wright

There being no additional discussion and following a roll call vote in favor by participating members, the motion carried.

B. Approval of Invoices

Ms. Schutte presented invoices for approval: 1) Board Member travel to today's meeting; 2) Deputy Director travel for August and September; 3) Staff and Board Member travel to the NACSA conference; 4) July and August Cornerstone Consulting invoices; 5) NACSA membership for FY18; and 6) Interior Elements office furniture for the credenza and filing cabinets.

Mr. Cardin motioned to approve all invoices as presented except for the July and August Cornerstone Consulting invoices.

MOTION: Mr. Cardin

SECOND: Mr. Wilson

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

Mr. Cardin recused himself from the meeting and left the room.

Chair Cormack requested a motion to approve the July and August invoices from Cornerstone Consulting as presented.

MOTION: Dr. Wright
SECOND: Dr. Young

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

C. 2017 Request for Proposals: Stage 3 Results

Mr. Cardin returned to the room.

Chair Cormack stated that in the absence of a vice-chair and the need to recuse herself from the meeting that the Board need appoint a Chair Pro Tem.

Dr. Elam made a motion to appoint Tommie Cardin as chair pro tem in the absence of Board Chair Cormack. The role of Chair will return to Chair Cormack upon her return to the meeting.

MOTION: Dr. Elam
SECOND: Dr. Wright

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

Chair Pro Tem Tommie Cardin presided over the meeting.

i. Application of Clarksdale Collegiate for One School (Clarksdale Collegiate)

Dr. Elam made a motion that the Mississippi Charter School Authorizer Board adopt a resolution to approve Clarksdale Collegiate's proposal for one charter school for the 2018-2019 school year, providing execution of the charter contract and final approval of the school to open shall be conditioned on timely preopening requirements. The preopening requirements will be designed to ensure that the school is prepared to meet its obligations as a public charter school, including but not limited to all building, health, safety, insurance, and other legal requirements that must be fulfilled prior to opening.

MOTION: Dr. Elam
SECOND: Dr. Young

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

ii. Application of Shades of Elegance for One School (Truth Academy STEAM Charter School)

Dr. Elam made a motion that the Mississippi Charter School Authorizer Board adopt a resolution to deny Shades of Elegance's proposal for one charter school for the 2018-2019 school year as it fails to meet the Mississippi Charter School Authorizer Board's criteria for approval as detailed in the Recommendation Report.

MOTION: Dr. Elam
SECOND: Dr. Wright

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

iii. Application of SR1 for One School (SR1 College Preparatory and STEM Academy)

Dr. Elam made a motion that the Mississippi Charter School Authorizer Board adopt a resolution to deny SR1's proposal for one charter school for the 2018-2019 school year as it fails to meet the Mississippi Charter School Authorizer Board's criteria for approval as detailed in the Recommendation Report.

MOTION: Dr. Elam

SECOND: Dr. Wilson

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

D. Election of Officers

Chair Cormack returned to the meeting and resumed her role as Chair.

Chair Cormack presented the positions open for election. The first position open is board chair.

Mr. Cardin made a motion to nominate Krystal Cormack as board chair.

MOTION: Mr. Cardin

SECOND: Mr. Wilson

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

Chair Cormack presented vice-chair as open for nominations.

Mr. Wilson made a motion to nominate Dr. Karen Elam as vice-chair.

MOTION: Mr. Wilson

SECOND: Mr. Cardin

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

ITEM VIII. PUBLIC COMMENT

Chair Cormack shared that seven individuals signed up for public comment for today's meeting. Public comment is limited to five minutes.

Ms. Amanda Johnson thanked the Authorizer Board for their time today and for approving Clarksdale Collegiate's charter school proposal. She shared that she is excited to get started on the process and path to opening Clarksdale Collegiate and offer an option to the families of Clarksdale and Coahoma County.

She stated concerns and misunderstandings may come up today and she wanted to clear up some of those misunderstandings. Charter schools in Mississippi are public schools. They are public entities with a public governing board and body and hold public meetings. Charter schools in Mississippi operate under open enrollment rules. They will offer special education services. They will take the same tests as traditional public schools and receive an accountability score. The main difference is that they operate outside the local school district and are held to higher accountability. Public funding follows students to charter schools. She stated that they do not expect to get any public dollars for students they don't educate. She also stated that public funding for schools in Mississippi is not adequate and they will fight alongside other public schools for adequate funding. She also stated that based on her experiences of opening and running a charter school in Helena, Arkansas she knows that charter schools can be successful.

Superintendent Dennis Dupree thanked the board for the opportunity to speak. He shared his concerns over the charter school process and stated that he felt that the process was conducted without any public comment. He asked board members if they had been to Clarksdale Public Schools to see the work that they were doing. He said that sometimes people get tied up in test scores that people don't realize where students come from. He believes that another school in an existing low-poverty, low-income tax base setting will create a storm and situation to deal with. He stated that he has never had a conversation with Ms. Johnson about approving the existing school system. He stated that he already has trouble finding certified teachers and another school will make that harder. He stated that it was too easy for board members to vote yes on something that they don't really understand. He said the school will only take away from the public system. He stated that they have to take students in Clarksdale as they come and he's not sure how that will work with charter schools. He closed by saying that board members need to come and see what Clarksdale is doing before they authorize schools.

Senator Robert Jackson thanked the board for the opportunity to speak. He stated that he is a public school graduate and they were great for him then and they are doing well for kids who are going to public school now. Senator Jackson stated that he opposed the original charter school legislation and wanted to go on the record as opposed to the Clarksdale Collegiate proposal. He traveled to New Orleans to see charter schools and people were excited about them then but aren't excited about them now. He stated that funds are an issue as well as the Superintendent's budget has been cut. He stated he's going to be looking for ways to get rid of the charter school legislation. He stated that schools just need the funding to do the job they are intended to do. He also wanted to go on record to say that he will work until the school is no longer there. He stated that he will be paying attention to the process before they open and hopes that the board will look at it and decide that this isn't the time to open the charter school.

Representative Orlando Paden thanked the board for the opportunity to speak. He stated that he sent a letter opposing Clarksdale Collegiate's proposal. He stated that Coahoma County can't afford another school district to open in their community. He believes if the State would fully fund education and the Department of Education then education will be better for the general public. He wanted to go on record opposing Clarksdale Collegiate and charter schools in the state of Mississippi. He wants to fully fund public education and make it grow into something greater.

Donell Harrell shared that he was a former Superintendent of the Clarksdale school system. He has two daughters that have graduated from Clarksdale public schools and have gone on to college and are successful. He stated that there are problems in Mississippi. The adequate education program has only been fully funded twice. He shared that they can't afford another school district there and instead need to fully fund public schools. He stated that white flight has been taking place since the 1970s and a charter school is not going to solve that. He wanted to know where the teachers and funds are going to come from in order to operate the charter school. He wanted to go on record opposing Clarksdale Collegiate.

Johnny Newsome stated that as a member of the Coahoma County Board of Supervisors he was there representing his constituents but not the board of supervisors. He stated that he didn't believe that enough community input had gone into the process. He stated that he and his wife had different viewpoints on the issue but wants the Authorizer Board to take more time on the issue. He shared that he wanted to present his comments before the board members voted today. He asked how this would affect Coahoma County and their millage rates in order to fund the charter school. He agreed that the public schools need some attention and work. He wanted to know why there wasn't a meeting to try and solve the issues in the traditional public schools. He stated that 1,400 people signed a petition against the school and wanted to know if the Authorizer Board members had received the petition. He closed by stating he wanted the best for all students and not just a select few.

Superintendent Cassandra Williams of Canton Public Schools stated that they submitted written comments and wanted to speak before the board today because of the reputation of SR1 in the community and because of their lack of experience with elementary education. She stated that her biggest concern was their lack of track record and experience with literacy. She believes that the proposed school will do damage to children. She believes that the Authorizer Board should review the educational plan components earlier in the process. She stated that Canton Public Schools is educating kids based on their Kindergarten and third grade data. She was glad that the Authorizer Board didn't approve the SR1 application and that she couldn't not come today and speak against the application.

Chair Cormack addressed comments that public comment wasn't taken. She stated that the Authorizer Board has a specific phase in the Request for Proposals process to collect public comment on the proposals. She shared that public forums were held in Clarksdale, Canton, and Drew. She shared that all written comments and the petitions collected were shared and read by all board members. She acknowledged that the specific forums were held solely for the purpose of collecting public comments and approximately 400 people came to public forums this year.

ITEM IX. NEXT MEETING

The next meeting of the Authorizer Board will be to discuss the communications strategy proposal tentatively on September 25th. Ms. Schutte will communicate with board members via email to confirm the schedule and the Authorizer Board will post the meeting notice. The idea is to move up the October board meeting to this time in order to reduce travel for board members.

If not, the October board meeting date will be October 9th in Jackson.

ITEM X. ADJOURNMENT

Chair Cormack requested a motion to adjourn.

MOTION: Dr. Wright

SECOND: Mr. Cardin

There being no discussion and following a roll call vote in favor by all participating members, the motion carried.

The meeting adjourned at 11:13 am.

ADOPTED, this the 9th day of October 2017.

Krystal Cormack, Chair

During months when the Mississippi Charter School Authorizer Board meets, meetings are generally held on the first Monday of each month. Draft agendas are typically published for each meeting 8 days in advance. The Mississippi Charter School Authorizer Board may also call special meetings of the Board at any time, subject to statutory notice requirements.

January 2018	22	Board Retreat
	23	Board Meeting
February 2018	No Board Meeting	
March 2018	5	Board Meeting
April 2018	2	Board Meeting
May 2018	No Board Meeting	
June 2018	4	Board Meeting
July 2018	9	Board Meeting
August 2018	No Board Meeting	
September 2018	10	Board Meeting
October 2018	8	Board Meeting
November 2018	No Board Meeting	
December 2018	3	Board Meeting

Title 10: Educational Institutions and Agencies

Part 403: Board Policies

Part 403 Chapter 1: Administration Procedures Act

Rule 4.1 Administration Procedures Act. When the Mississippi Charter School Authorizer Board (MCSAB) adopts, amends or repeals any of its rules or policies affecting the public, the Secretary shall file with the Secretary of State notice of this intent in accord with Sections 25-43-1.101 through 25-43-3.114 of the Mississippi Code. This notice shall be filed at least twenty-five (25) days prior to the final adoption of the rule, amendment or repeal, except when imminent peril to the public health, safety or welfare requires adoption of a rule upon fewer than twenty-five (25) days notice. Thereafter, when the MCSAB adopts the rule, amendment or repeal, the Secretary shall file with the Secretary of State a certified copy of the rule, amendment or repeal. The action shall become final thirty (30) days after the filing with the Secretary of State of the certified copy. The Executive Director shall develop a procedure to be used in implementing this policy.

Source: Miss. Code Ann. § 37-1-3 (Revised 11/1993)

Rule 4.2 Hearing Procedure and Declaratory Opinions. Pursuant to Section 25-43-3.104 of the Mississippi Administrative Procedures Law, the MCSAB must afford persons the opportunity to submit, in writing, argument, data, and views on a proposed rule. The MCSAB may, in its discretion, schedule an oral proceeding on any proposed rule. However, the MCSAB must schedule an oral proceeding on a proposed rule if, within twenty (20) days after the proper filing of the notice of proposed rule adoption, a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) persons. Pursuant to Section 25-43-3.104, an agency may issue rules for the conduct of oral rule-making proceedings or prepare reasonable guidelines or procedures for the conduct of any such proceedings. If a written request for an oral proceeding is received from an eligible party as described above, the MCSAB prescribes the following procedures for the conduct of oral hearings.

1. An oral proceeding will be scheduled no earlier than twenty (20) days after notice of the proceeding's location and time is properly filed with the Secretary of State for publication in the administrative bulletin.
2. Within three (3) days after filing with the Secretary of State, notice of the location and time for the proceeding shall be mailed to each person who has made a timely request to the MCSAB to be placed on the mailing list maintained by the MCSAB of persons who have requested notices of proposed rule adoptions.
3. Within three (3) days after filing with the Secretary of State, notice of the location and time for the proceeding shall be published in newspapers with general circulation throughout the state.
4. The MCSAB designates the Executive Director or another presiding officer designated by the Executive Director to preside at a required oral proceeding on a proposed rule.
5. Oral proceedings shall be open to the public.

6. A record, to include all documents submitted at the proceeding, shall be made by stenographic or other means of all oral proceedings. The record shall be available for cost upon the written request of an applicant.
7. Oral proceedings shall not be conducted pursuant to statutory or formal rules of evidence or procedure. The presiding officer's authority to limit oral testimony includes, but is not limited to, those situations necessary to keep the hearing focused on the proposed rule or to prevent undue repetition in the proceeding.
8. The presiding officer shall make a recommendation to the MCSAB at its next, regularly scheduled meeting. Said recommendation shall include: (i) the proposed rule; (ii) a summary of the oral proceeding; and, (iii) recommendations.

Rule 4.2.1 Declaratory Opinions

1. **Scope**

Part III of these Rules is promulgated pursuant to MS Code Ann. §25-43-2.103(2) (1972) of the Administrative Procedure Law, and is intended to set forth the MCSAB's rules governing the form and content of requests for declaratory opinions, and the MCSAB's procedures regarding the requests, as required by MS Code § 25-43-2.103 (1972). These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.
2. **Persons Who May Request Declaratory Opinions.**

Any person with a substantial interest in the subject matter may request a declaratory opinion from the MCSAB by following the specified procedures. "Substantial interest in the subject matter" means: an individual, business, group or other entity that is directly affected by the MCSAB's administration of the laws within its primary jurisdiction. "Primary jurisdiction of the agency" means the agency has a constitutional or statutory grant of authority in the subject matter at issue.
3. **Subjects Which May Be Addressed In Declaratory Opinions.**

The MCSAB will issue declaratory opinions regarding the applicability to specified facts of: (1) a statute administered or enforceable by the or (2) a rule promulgated by the Board. The MCSAB will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the agency.
4. **Circumstances in which Declaratory Opinions Will Not Be Issued.** The MCSAB may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:
 - a. lack of clarity concerning the question presented;
 - b. there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
 - c. the statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

- d. the facts presented in the request are not sufficient to answer the question presented;
- e. the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- f. the request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;
- g. no controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule;
- h. the question presented by the request concerns the legal validity of a statute or rule;
- i. the request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;
- j. no clear answer is determinable;
- k. the question presented by the request involves the application of a criminal statute or a sets of facts which may constitute a crime;
- l. the answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
- m. The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;
- n. A similar request is pending before this agency or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law.
- o. Where issuance of a declaratory opinion may adversely affect the interests of the State, the Board, the Commissions appointed by the Board, or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;
- p. The question involves eligibility for a license, permit, certificate or other approval by the MCSAB or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

5. Written Request Required.

Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Board.

6. Where to Send Requests.

All requests must be mailed, delivered or transmitted via facsimile to:

Mississippi Charter School Authorizer Board
 ATTN: DECLARATORY OPINION REQUEST

239 N. Lamar Street
Suite 207
Jackson, MS 39201

The request shall clearly state that it is a request for a declaratory opinion. No oral, telephone requests or email requests will be accepted for official opinions.

7. Name, Address and Signature of Requestor.

Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.

8. Question Presented.

Each request shall contain the following:

- a. a clear and concise statement of all facts on which the opinion is requested;
- b. a citation to the statute or rule at issue;
- c. the question(s) sought to be answered in the opinion, stated clearly;
- d. a suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;
- e. the identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and
- f. a statement to show that the person seeking the opinion has a substantial interest in the subject matter.

9. Time for MCSAB's Response.

Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the MCSAB shall, in writing:

- a. issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances;
- b. decline to issue a declaratory opinion, stating the reasons for its action; or
- c. agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request. The forty-five (45) day period shall begin running on the first State of Mississippi business day on or after the request is received by the Board, whichever is sooner.

10. Opinion Not Final for Sixty Days.

A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the MCSAB may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are

not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

11. Notice by MCSAB to third parties.

The MCSAB may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.

12. Public Availability of Requests and Declaratory Opinions.

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and the Board's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

13. Effect of a Declaratory Opinion.

The MCSAB will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the MCSAB and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the MCSAB shall be binding only on the MCSAB and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

Source: Miss. Code Ann. § 37-1-3 (Adopted 6/2017)

Title 10: Educational Institutions and Agencies

Part 403: Board Policies

Part 403 Chapter 2: Request for Information

Rule 2.1: Public Records Policy. The public records policy of the Mississippi Charter School Authorizer Mississippi Charter School Authorizer Board (MCSAB) has been adopted in accordance with the Mississippi Public Records Act of 1983, Section 25-61-1, et seq. Mississippi Code of 1972. All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

1. PUBLIC RECORD

In accordance with Miss. Code Ann. Section 25-61-3(b), public records are defined as "all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the

conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.”

2. REQUEST:

Requests for information may be made pursuant to and in accordance with the Mississippi Public Records Act and the MCSAB policy by submitting a written request specifying the record(s) sought, and must include the name, address, and email address of the individual and/or organization requesting the record.

A form has been created to assist requesters in meeting these submission requirements and is available online at www.charterschoolboard.ms.gov.

Requests should be submitted to:

Mississippi Charter Authorizer Board
ATTN: PUBLIC RECORDS REQUEST
239 N. Lamar Street
Suite 207
Jackson, MS 39201

3. RESPONSE:

The MCSAB shall respond in writing within seven (7) working days from the date of the receipt of the request. If the requested record is unable to be produced by the seventh working day after the request is made, the MCSAB will provide a written explanation to the requester stating that the record requested will be produced and specifying with particularity why the records cannot be produced within the seven-day period. Unless there is mutual agreement of the parties, in no event shall the date for the requested records be any later than fourteen (14) working days from the receipt by of the original request.

4. FEES:

By statute, charges are made on a cost-recovery basis. Any person who desires copies of a public record as defined herein but does not officially represent a public body shall be charged the actual cost per page of mechanically reproduced copy. Copies of pages printed on both sides (front and back) shall be considered as two pages. This fee is for the cost of searching, reviewing, and duplicating the public record.

However, if the searching, reviewing, or duplicating of documents or the separating of nonexempt material from documents, etc., containing exempt material requires more than one-quarter hour of work, then the hourly rate can be charged in addition to a mechanical reproduction charge of twenty-five cents (\$.25) per page for any copies desired. The charge for the hours shall be based upon the hourly salary of the lowest paid employee of the MCSAB qualified and available to do the job.

In the event the public record is available in computer files and can be obtained through computer use, the requesting party must pay the charge for computer use, including

programming time and actual computer time as well as any other costs incurred. This charge will be determined by the MCSAB.

Mailing costs calculated at the applicable United State Postal Service rates shall be charged where appropriate. The cost of mailing a notice to third parties via certified mail, return receipt requested, shall be charged to persons requesting the public records. Actual costs for shipment by other than United States Postal Service shall be charged to the person requesting the special shipment.

When fees are appropriate as specified, the fees must be paid prior to the Board's compliance with the request. Cash, money orders, cashier's checks, personal and company checks will be accepted in payment for fees, and must be made payable to the Mississippi Charter School Authorizer Board. Payment by personal or company check will be accepted subject to clearance within fourteen (14) working days.

5. THIRD PARTY NOTICE:

Records furnished to the MCSAB by a third party which contain trade secrets or confidential commercial or financial information shall not be released until notice to the third party has been given in accordance with the Mississippi Public Records Act. Such records shall be released in fourteen (14) days from the third party's receipt of notice unless the third party obtains a court order protecting the records as confidential or notifies MCSAB in writing of its intent to seek such order.

6. DENIALS:

Denials shall contain the specific reasons for denial. Copies of all denials shall be maintained on file by the MCSAB for not less than three years from the date denial is made.

Source: MS Code 25-61-1, et seq. (Adopted 06/2017)