

Title 10: Education Institutions and Agencies

Part 402: Board Policies

Part 402 Chapter 1: Declaratory Opinions

Rule 1.1 Application of Chapter. This chapter sets forth the Mississippi Charter School Authorizer Board rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the Board's procedures regarding the disposition of requests as required by Mississippi Code § 25-43-2.103.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.2 Scope of Declaratory Opinions. The Mississippi Charter School Authorizer Board will issue declaratory opinions regarding the applicability to specified facts of:

- A. a statute administered or enforceable by the Board,
- B. a rule promulgated by the Board, or
- C. an order issued by the Board.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.3 Scope of Declaratory Opinion Request. A request must be limited to a single transaction or occurrence.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.4 How to Submit Requests. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Mississippi Charter School Authorizer Board or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
- E. Each request must clearly state that it is a request for a declaratory opinion.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.5 Signature Attestation. Any party who signs the request 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 agency, administrative, or judicial tribunal.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.6 Request Content Requirement. Each request must contain the following:

- A. A clear identification of the statute, rule, or order at issue;
- B. The question for the declaratory opinion;
- C. A clear and concise statement of all facts relevant to the question presented;
- D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and
- E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.7 Reasons for Refusal of Declaratory Opinion Request. The Mississippi Charter School Authorizer Board 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. The matter is outside the primary jurisdiction of the Board;
- B. Lack of clarity concerning the question presented;
- C. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- D. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- E. The facts presented in the request are not sufficient to answer the question presented;
- F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- G. 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 rule, statute, or order on which a declaratory opinion is sought;
- H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
- I. The question presented by the request concerns the legal validity of a statute, rule, or order;
- J. 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;
- K. No clear answer is determinable;
- L. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
- M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
- N. The question is currently the subject of an Attorney General's opinion request;
- O. The question has been answered by an Attorney General's opinion;
- P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
- Q. 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; or

R. The question involves eligibility for a license, permit, certificate or other approval by the Mississippi Charter School Authorizer Board or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.8 Agency 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 Mississippi Charter School Authorizer Board shall, in writing:

- A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
- B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
- C. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day after which the request is received by the Board.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 1.9 Availability of Declaratory Opinions and Requests for Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name, subject, and date of issue. 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.

Source: Miss. Code Ann. § 25-43-2.105.

Part 402 Chapter 2: Rulemaking Oral Proceedings

Rule 2.1 Purpose. This chapter consists of rules for oral proceedings held to provide the public an opportunity to comment on submissions made under the Administrative Procedures Act and the Rules in this Title.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 2.2 Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the Mississippi Charter School Authorizer Board pursuant to the Administrative Procedures Act.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 2.3 Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Mississippi Charter School Authorizer Board or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 2.4 Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Agency Head, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 2.5 Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

- A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
- B. Persons wishing to make oral presentations at such a proceeding shall notify the Mississippi Charter School Authorizer Board at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the Mississippi Charter Authorizer Board prior to the proceeding.
- C. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
- D. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
- E. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
- F. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter

relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: Miss. Code Ann. § 25-43-2.105.

Rule 2.6 Submissions and Records. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Mississippi Charter Authorizer Board, part of the rulemaking record, and are subject to the Mississippi Charter School Authorizer Board's public records request procedure. The Mississippi Charter School Authorizer Board may record oral proceedings by stenographic or electronic means.

Source: Miss. Code Ann. § 25-43-2.105.

Part 402 Chapter 3: Public Records Requests

Rule 3.1: Public Records Policy. The public records policy of the 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.* and the Mississippi Ethics Commission's Model for Public Records Rules. All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

A. 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."

B. REQUEST:

Requests for public records 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, telephone number, 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 may be emailed to charterschoolsupport@mcsab.ms.gov, mailed, or hand delivered to the physical address listed below. No verbal or telephone requests can be accepted without written request received.

Requests should be submitted to:

Mississippi Charter School Authorizer Board
ATTN: PUBLIC RECORDS REQUEST
239 N. Lamar Street, Suite 207
Jackson, MS 39201
charterschoolsupport@mcsab.ms.gov

C. RESPONSE:

The MCSAB will strive to respond to each request within seven (7) working days after the request is received. Acknowledgement of the request will be made in one or more of the following ways: 1) make the records available for inspection or copying during regular working hours, 2) if copies are requested and payment of the cost estimate for the copies, if any, is made, send the copies to the requestor, 3) provide a reasonable estimate of when records will be available, 4) if the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone and may delay production beyond seven (7) working days, or 5) deny the request. In the event of a denial, MCSAB will provide an explanation of the denial to the requestor in writing. Copies of all denials shall be maintained on file by the MCSAB for not less than three (3) years from the date denial is made.

The day the request was initially received by the MCSAB will not be included in the seven (7) working day response period referenced above. The first day of the response period will begin on the next working day. If the requested information is unable to be produced by the seventh (7th) working day after the request is made, the MCSAB will provide a written explanation (which may be provided by email) to the requestor indicating why the document cannot be produced during that timeframe. Compilation of documents will not begin until timely payment is received. Delay by the requestor in the payment of an estimated fee may result in the delay of delivery of the requested documents. The MCSAB will provide assistance to the requestor to the best of its ability; to ensure that public records are protected from damage or disorganization; and to prevent the fulfillment of requests from causing excessive interference with essential functions of the MCSAB.

During an emergency or in the case of a disruption in services, the timetable for processing may be reasonably delayed. In that instance, notice will be given to the requestor, if possible, and public records requests will be handled as soon as practically possible.

D. FEES:

Payment for information requested must be made in advance of receipt of documents and must be sufficient to cover the actual costs for the MCSAB to furnish the information. Such costs include, but are not limited to, staff time to evaluate the request (including costs associated with legal advice by in-house and outside attorneys), to retrieve any relevant files, to organize the information, to notify any third parties, to develop a cost estimate and schedule, to monitor and/or assist inspection of records, to reproduce the material, if necessary, and to deliver the responsive records.

No cash can be accepted. Money orders, certified checks, personal checks, and corporate checks are accepted by this office.

The MCSAB will notify the requestor of the costs to obtain the information prior to processing the request. Compilation of documents will not begin until timely payment is received. By delaying the payment of the estimated fee, the requestor acknowledges there may be a delay in the delivery of the requested documents. If timely payment is not received within thirty (30) days, the MCSAB will proceed no further with the request. If, at a later date, the requestor decides to proceed with the request, he/she should submit a new request. No request will be processed until after payment is received and funds are verified.

If the actual cost is higher than the estimate, the requestor will be required to pay the difference before receiving the records. If the actual cost is lower than the estimate, the MCSAB will refund the difference.

E. RECORDS EXEMPT FROM DISCLOSURE

Some records are exempt from disclosure, in whole or in part. If the MCSAB believes that a record is exempt from disclosure and should be withheld, staff will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the MCSAB will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

The Public Records Act, as well as other statutes and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by MCSAB for inspection (this is not intended to be an exhaustive list):

1. Attorney work product, and attorney-client privilege, examination, exemption, see § 25-1-102.
2. Personnel files exempt from examination, see § 25-1-100.
3. Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.
4. Social security numbers, disclosure safeguards, see § 25-1-111.

Any person filing documents with the MCSAB shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The MCSAB shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the MCSAB bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

F. PUBLIC INFORMATION VIA THE INTERNET:

Some information pertaining to the MCSAB is available free of charge on the MCSAB website at www.charterschoolboard.ms.gov. Requestors are encouraged to view the documents available on the MCSAB website prior to submitting a public records request.

G. CLOSURE OF A REQUEST:

When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit/cost estimate or payment in full for the requested records within thirty (30) calendar days of the submission of the request, the MCSAB will close the request and notify such requestor of such closure via email.

H. LATER DISCOVERED DOCUMENTS:

If, after the MCSAB has informed the requestor that it has provided all available records, the MCSAB becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and will provide them to the requestor.

I. RECORDS OF OTHER GOVERNMENTAL AGENCIES OR ENTITIES:

In instances when a public records request is submitted to the MCSAB seeking records that are primarily in possession of another governmental agency/entity, the MCSAB will notify the requestor which government body has primary possession of the responsive records, and the MCSAB will furnish what records are in its possession provided the requestor desires to move forward with the original request.

J. REVIEW OF DENIALS

Review by the Ethics Commission. Pursuant to Miss. Code Ann. § 25-61-13, if the MCSAB denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at www.ethics.state.ms.us.

Judicial Review. Any person whose request for public records was denied may institute a suit in the chancery court of Hinds County, seeking to reverse the denial, as set forth in Miss. Code Ann. § 25-61-13.

Source: Miss. Code Ann., § 37-28-9 and § 25-61-1, *et seq.*

Part 402, Chapter 4: Records Received by Board

Rule 4.1 Records Received by Board. All records received by MCSAB will be considered public records unless the sending party requests in writing at the time the document is received that a specific document or a specific part(s) of a document be considered trade secrets or confidential commercial or financial information under Miss. Code Ann. § 24-61-9. If any documents that have been deemed by any third party to be considered trade secrets or confidential commercial or financial information be requested as a public record under the Mississippi Public Records Act, Miss. Code Ann. § 24-61-1, *et seq.*, MCSAB will notify the third party of their opportunity under Miss. Code Ann. § 24-61-9 to seek a protective order. Any documents that have not been

deemed by any third party to be considered trade secrets or confidential commercial or financial information will be produced according to the Mississippi Public Records Act.

Source: Miss. Code Ann. § 37-28-9.

Part 402, Chapter 5: Administrative Hearing Procedures

Rule 5.1 Hearing Procedure Variance. The Mississippi Charter School Authorizer Board (“MCSAB” or “Board”) may grant variances from these rules if it is determined that application of the rules would, in the particular case, be unnecessarily burdensome, and such variance would not be inconsistent with the public policy purposes of the Mississippi Charter Schools Act of 2013 (“Act”).

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.2 Severability. If any one or more of these rules, or any part of any rule is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other rule or the remaining content of any part of a rule that is not found to be invalid. Further, if any one or more of these rules, or any part of any rule, is superseded, amended, or contradicted by subsequent legislations, such amendment or change by subsequent legislation in no way invalidates any other part of a rule or any other rules not addressed or impacted by subsequent legislative action.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.3 Oral opinions. Oral or informal opinions by members or staff of the Board as to the applicability of the Act and oral or informal representations by members or staff of the Board concerning the status of filings and applications made with the Board are not binding upon the Board. Requestors can obtain a written declaratory opinion from the Board by following the procedures described in the Board’s rule on Declaratory Opinions.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.4 Notice of Hearing. Written notice shall be provided to any charter school governing board or other person against whom the Board intends to institute an administrative hearing pursuant to the Act or these rules. At least thirty (30) calendar days of notice shall be given to the charter school governing board or other person prior to the hearing unless the charter school governing board or other person notified consents or the Board has authority to do so under applicable statute. Notice is effective on date of issue.

Such notice shall be made by certified mail, return receipt requested, and shall set forth the date, time and place for the administrative hearing and shall also designate a hearing officer.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.5 Appointment and Authority of Hearing Officer. The Board hereby appoints a designee chosen by the Executive Director from a list preapproved by the Board as hearing officer for all hearings held under this chapter.

The hearing officer has and shall exercise the power to regulate all proceedings in every hearing before him or her and to do all acts and take all measures necessary or proper for the efficient performance of his or her duties under these rules. The hearing officer may require production, through order or subpoena, of evidence upon all matters in the hearing, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The hearing officer shall have the power to administer oaths and affirmations, examine witnesses, examine and report upon all matters referred to him or her. The hearing officer shall have the power to enter protective orders.

The hearing officer shall have the power to direct the issuance of subpoenas for witnesses to attend before him or her to testify in the cause. If any witness shall fail to appear, the hearing officer shall proceed by process to compel the witness to attend and give evidence. The hearing officer may direct the parties to participate in a conference or conferences prior to the hearing on the merits, for such purposes of expediting the disposition of the action and facilitating resolution of the case.

The hearing officer shall have the authority to admit into the record any evidence which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The hearing officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy, or unduly cumulative.

The hearing officer may issue rulings on scheduling matters, protective orders, admissibility of evidence, and other procedural or pre-hearing matters. The hearing officer may alter any of the time periods provided by these regulations, upon his or her own initiative or upon a motion by a party or other person affected for good cause shown.

The hearing officer may clear the hearing room of witnesses not under examination. The hearing officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.6 Appearance through Counsel. Parties to proceedings governed by this chapter may appear personally or through an attorney, except that a party must personally attend any hearing on the merits unless his attendance has been waived, in writing, by the hearing officer. When a party has appeared through an attorney, service of all notices, motions, orders, decisions, and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing. When a party is represented by an attorney, the attorney shall sign all motions, oppositions, notices, requests, and other papers on behalf of the party, including any request for issuance of subpoena.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.7 Pre-Hearing Conference/Scheduling. The hearing officer may enter a scheduling order, or any such other order, that sets deadlines, conferences, or hearings deemed necessary or appropriate by the hearing officer. Oral argument will not normally be granted. However, the hearing officer may grant oral argument on any motion in his or her sole discretion.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.8 Subpoenas requested by parties. The hearing officer shall have the power to issue subpoenas for testimony or documents. Subpoenas may be issued to parties upon request, but only for the following purposes:

- A. To compel a non-party witness to appear and give testimony at any hearing scheduled under these rules; or
- B. To compel any person to appear at the hearing on the merits of the case, to give testimony, or to produce documents or other tangible things.

Subpoenas requested by a party shall be submitted to the hearing officer on a form approved by the Board. Concurrently with the submission of the subpoena to the hearing officer, the requesting party shall serve a copy on all of the parties to the proceeding and shall file proof of such service with the Board and the hearing officer.

Subpoenas shall not be issued in blank. A subpoena submitted for issuance must contain the title and number of the case, the name of the person to whom it will be directed, the date, time and place of hearing, and the name and signature of the requesting party or his or her attorney. A subpoena duces tecum must in addition, contain a complete description of specific documents or other tangible things that the witness will be required to produce at the hearing.

Unless the witness agrees otherwise, a subpoena issued for the purposes provided in these rules must be served by the requesting party at least ten (10) calendar days prior to the hearing. A subpoena will be issued during the hearing or on less than ten (10) days' notice only upon order of the hearing officer for reasonable cause shown by the requesting party.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.9 Conduct of Hearings. Hearings shall be informal, and the Miss. Rules of Evidence, while applicable, shall be relaxed. All witnesses who appear and testify under oath shall be subject to cross-examination.

Documents received into evidence by the hearing officer shall be marked by him or her, or under his or her direction, entered into evidence, and made a part of the record in the cause.

Rebuttal or surrebuttal evidence may be heard at the discretion of the hearing officer.

At the hearing, the Board shall be the first to present evidence.

The Board shall have the burden of proving its assertions by a preponderance of the evidence. Fraud must be proven by clear and convincing evidence.

A record of testimony at the hearing shall be made. A true and correct copy of said stenographic recording shall be made available to any party to the hearing requesting it, provided such party agrees to pay the expense of such copy.

Nothing contained herein shall prohibit the hearing officer from entering orders or making rulings which provide for the orderly conduct of said hearings. The hearing officer may limit the issues to be heard during any hearing. The hearing officer may also make rulings concerning any matters which do not involve a disputed issue of fact without setting a hearing concerning same. Continuances will not be granted except for good cause shown.

In computing any period of time prescribed or allowed under these rules, the hearing officer and all parties shall be guided by the Mississippi Rules of Civil Procedure.

Source: Miss. Code Ann. § 37-28-9 and 33(8).

Rule 5.10 Recommendation of the Hearing Officer and Decision of the Board. All findings of fact and conclusions of law made by the hearing officer or the Board shall be based upon the preponderance of the evidence. The hearing officer shall reduce all recommendations to writing and submit those recommendations to the Board as described herein.

After all evidence is heard or received and the hearing is completed, the hearing officer shall, within a reasonable time thereafter, issue a report and recommendation that details his or her findings of fact and conclusions of law. All parties (including the Board) shall be served with the hearing officer's report and recommendation. Within fourteen (14) calendar days following service of the findings, either party may present a written response to these findings to the Board. The Board will review the hearing officer's report and recommendations, all exhibits entered into evidence, all written responses to the Report and Recommendations and, if desired, order a transcript of the hearing.

Thereupon, the Board may issue a final order adopting and accepting the hearing officer's report and recommendations, rejecting the report and recommendations in whole or in part and issuing findings of fact and conclusions of law with a final order; or remand the case to the hearing officer for additional findings or clarification of key issues. A case is not concluded until issuance of a final order by the Board. All reports and recommendations and final orders shall be sent via certified mail, return receipt requested, to all parties who appeared at the administrative hearing or their attorney or authorized representative.

Source: Miss. Code Ann. § 37-28-9 and 33(8).