

PUBLIC COMMENT
to the
MS CHARTER SCHOOL AUTHORIZER BOARD
Submitted by Mike Sayer, Southern Echo, Jackson, MS

Re:

- a. BY-LAWS, ARTICLE 8: Public Testimony and Submission of Data, Views, and Arguments,**
- b. Nov. 1, 2013 Public Notice Inviting Public Comment, and**
- c. Non-Compliance with the MS Administrative Procedures Act**

The MS Charter School Authorizer Board must comply with the MS Administrative Procedures Law.

The MS Charter School Authorizer Board is an “Agency” which is an “administrative unit of this state”, as defined by the MS Administrative Procedures Act. *MS Code Sec. 25-43-1.102(a)*.

The Administrative Procedures Law “applies to all agencies and all proceedings not expressly exempted” by this law. *MS Code Sec. 25-43-1.103(1)*. The MS Charter School Authorizer Board is not expressly exempted by any law from the requirements of the MS Administrative Procedures Law.

The charter school application Request for Proposals and the Evaluation Rubric constitute “rules” which “implement, interpret and prescribe law or policy”, as defined in the MS Administrative Procedures Act. *MS Code Sec. 25-43-1.102(i)*.

The process in which the MS Charter School Authorizer Board is now engaged in preparation for adoption of an application RFP and Evaluation Rubric constitutes “rule-making” as defined in the MS Administrative Procedures Act. *MS Code Sec. 25-43-1.102(j)*.

Among the purposes of the MS Administrative Procedures Law is to “increase public accountability of administrative agencies”, “increase public access to governmental information” and “to increase public participation in the formulation of administrative rules”. *MS Code Sec. 25-43-1.1-1*.

Board must provide Email address and Fax number for Public Comment process

In furtherance of these goals the MS Administrative Procedures Law provides multiple ways for the public to submit its views to a state agency, such as the Charter Board:

Whenever, under this chapter, a party or any person is permitted or required to file with an agency any pleading, motion or other document, filing must be made by delivery of the document to the agency, by mailing it to the agency or by transmitting it to the agency by electronic means, including, but not limited to, facsimile transfer or e-mail. [emphasis added.] MS Code Sec. 25-43-1.106(1)(a).

The MS Charter School Authorizer Board on November 1, 2013 invited the public to comment on the Board’s proposed By-Laws, Application Request for Proposals and Evaluation Rubric. However, in the Notice the Board provided only a US mail address for submission of public comments. This is an unfortunate violation of the MS Administrative Procedures Law.

A Charter Board rule “is invalid unless adopted in substantial compliance with the provisions” of the MS Administrative Procedures Law. *MS Code Sec. 25-43-3.111.*

Remedy:

- a. The MS Charter School Authorizer Board, as mandated by the MS Administrative Procedures Law, must designate both an **email address** and a **fax number** that will enable members of the public to submit *electronically* their comments and views to the Board. This remedy must be available not only for the current situation, but also whenever the Board is designing, altering or modifying rules and regulations, or otherwise is engaged in a process that implicates the MS Administrative Procedures Law.

- b. The MS Charter School Authorizer Board **By-Laws, Article 8**, should be amended to include the mandate to provide **US mail, email and fax means of communication** for submission of public views and comments. The proposed By-Laws, Article 8, are silent on this point and the oversight is reflected in the Nov. 1 Public Notice that provides only a US mail address. Placing the mandate in the By-Laws should mitigate against this oversight in the future.

Respectfully submitted
by Email and US Mail,

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