

TITLE 10: Education Institutions and Agencies
Part 430: Education Service Providers and Charter Management Organizations
Part 430: Chapter 1: Requirements for Charter School Contracts and Arrangements with Educational Service Providers and Charter Management Organizations
Source: Miss. Code Ann. §§ 37-28-5(g) and 37-28-39(2)

Charter School Structure

A charter school is a public school functioning as a Local Education Agency (“LEA”) under the Mississippi Charter Schools Act of 2013. The charter school is operated under a charter contract between the Mississippi Charter School Authorizer Board (“MCSAB”) and the independent governing board of the non-profit charter holder. The governing board remains responsible for the school and for compliance with Mississippi law, the charter contract, and MCSAB policy.

Purpose

This policy establishes requirements for charter school contracts and arrangements with Education Service Providers (“ESPs”), charter management organizations (“CMOs”), school design providers, vendors, contractors, affiliates, and related service providers. The purpose of this policy is to ensure compliance with the Mississippi Charter Schools Act of 2013, preserve the governing board’s independent authority, prevent unlawful comprehensive management by a for-profit entity, and provide a clear process for MCSAB review of ESP arrangements, management contracts, MOUs, and material amendments.

Education Service Provider (ESP)

An “Education Service Provider” or “ESP” has the meaning provided in Miss. Code Ann. § 37-28-5(g) and means a charter management organization, school design provider, or any other partner entity with which a charter school intends to contract for educational design, implementation, or comprehensive management. Any proposed ESP agreement, management contract, MOU, or material amendment that affects or may affect governance, the educational program, operations, financial controls, staffing model, management structure, Essential Terms, or governing board oversight must be submitted to MCSAB for review and, where required, approval before execution or implementation. Close questions must be submitted to MCSAB for written classification before the charter school takes action.

Ordinary Vendor or Contractor

An ordinary vendor or contractor provides discrete goods or services that do not confer comprehensive management, effective operational control, or authority reserved for the governing board. Examples may include audit, legal, payroll processing, student information systems, technology support, food service, transportation, custodial, therapy, professional development, assessment, curriculum products, or other limited goods or services. An ordinary vendor may still be subject to procurement, conflict, background check, FERPA, data security, federal grant, public records, and charter contract requirements.

Substantial ESP or Management Services

An ESP arrangement that provides substantial educational services, management services, or both, or that is central to the school’s operations or mission, must be reviewed under this policy even if it is not comprehensive management. MCSAB may require submission of the documentation listed below to determine whether the arrangement is permitted, whether it requires a material amendment, and whether the nonprofit comprehensive management requirement applies.

Comprehensive Management

“Comprehensive Management” means an agreement, series of agreements, affiliation, subcontracting arrangement, staffing arrangement, financial arrangement, or course of dealing under which an entity, alone or through affiliates or related parties, exercises or has the practical ability to exercise substantial control over the charter school. Relevant areas of control include academic programming, school model, curriculum implementation, school leadership, staffing, budget, bank accounts, financial systems, procurement, payroll,

enrollment, student records, special education, compliance reporting, operations, or day-to-day administration.

Pursuant to Miss. Code Ann. § 37-28-39(2):

A charter school and any ESP (as defined § 37-28-5) providing comprehensive management must be a nonprofit education organization.

A charter school shall not enter into or maintain a contract with a for-profit ESP that provides Comprehensive Management.

This prohibition applies to for-profit comprehensive management. It does not prohibit a charter school from contracting with a for-profit vendor, contractor, or non-comprehensive ESP for discrete, limited, specialized, or non-comprehensive services that do not confer comprehensive management, effective operational control, or authority reserved to the governing board.

Authorizer Determination

MCSAB may determine whether an ESP provides comprehensive management based on the totality of the relationship, including the written contract, side agreements, related-party or affiliate relationships, subcontracting, staffing arrangements, fiscal controls, actual practice, financial dependence, prior course of dealing, and whether the governing board retains meaningful independent authority. Indicators of comprehensive management may include, without limitation, whether the ESP, alone or through affiliates or related parties:

- Controls or has practical authority over hiring, evaluation, supervision, discipline, or termination of the school leader or key school personnel;
- Controls or materially influences the school budget, bank accounts, financial systems, payroll, procurement, accounting, audits, or grant management;
- Directs the school's academic model, curriculum implementation, assessments, instructional staffing, student services, or special education compliance beyond a limited support role;
- Controls enrollment, admissions, student discipline, student records, parent communications, or compliance submissions;
- Holds itself out as the operator or manager of the school or is necessary to the school's continued operation in a way that leaves the governing board without practical independence;
- Uses affiliate, subcontractor, licensing, back office, or staffing arrangements to divide functions that, taken together, amount to comprehensive management.

Required Submission

For any ESP providing substantial educational services, management services, or both, the charter holder must submit a complete review package in the form and timeline required by MCSAB. The package must include, at minimum:

- The draft agreement, term sheet, MOU, statement of work, side agreement, affiliate agreement, subcontract, license agreement, and any related documents;
- The proposed term and duration of the arrangement;
- An organization chart showing the governing board, school leadership, ESP, affiliates, subcontractors, vendors, staff, and all external entities with a role in school operations;
- A roles-and-responsibilities matrix identifying authority retained by the governing board, authority delegated to school staff, and services provided by the ESP;
- The scope of services, resources, personnel, deliverables, and implementation responsibilities to be provided by the ESP;
- Performance measures, reporting requirements, evaluation timelines, enforcement rights, and remedies for nonperformance;
- All compensation, fees, reimbursements, charges, revenue sharing, loans, advances, investments, in-kind support, related-party payments, and affiliate/subcontractor payments;
- Conditions for renewal, termination, transition, assignment, subcontracting, and records transfer;
- Evidence of the ESP's capacity and, where applicable, success serving similar student

- populations and managing similar functions;
- Background information for principal individuals affiliated with the ESP as reasonably required by MCSAB and applicable law;
- Conflict of interest disclosures for governing board members, officers, employees, agents, the ESP, and affiliated business entities;
- Procurement support, board minutes or resolutions, and evidence of governing board approval of submission to MCSAB.

No ESP agreement may limit the governing board's ability to exercise oversight, enforce performance expectations, access school records, comply with MCSAB oversight, or terminate the agreement for cause, legal noncompliance, loss of charter, material breach, conflict of interest violation, or failure to cooperate with MCSAB, audits, or corrective actions.

Each agreement and submission must disclose and explain any existing, potential, or apparent conflicts of interest involving the charter school, governing board members, officers, employees, agents, the proposed ESP, and any affiliated or related business entities. Any person with an actual or apparent conflict must disclose the conflict, recuse from deliberation and vote when required, and ensure the recusal is reflected appropriately in the minutes.

Governing Board Authority Reserved

The governing board of the nonprofit charter holder shall retain ultimate responsibility for the academic, financial, and operational, organizational, and legal performance of the charter school. The governing board may contract for services but shall not delegate or surrender final authority over:

- approval of the annual budget, budget amendments, financial policies, fiscal controls, bank accounts, and custody of public funds;
- adoption of board policies, bylaws, governance documents, and charter compliance decisions;
- selection, hiring, evaluation, compensation, discipline, and termination of the school leader;
- approval of material staffing structures, compensation schedules, employee policies, and personnel decisions reserved by law, contract, or board policy;
- student enrollment policies, lottery procedures, discipline policies, civil-rights compliance, and special education compliance;
- approval of material contracts, management contracts, MOUs, related-party transactions, grant commitments, loans, leases, and facility commitments;
- audit responses, corrective action plans, notices to MCSAB, renewal materials, amendment requests, and other matters reserved to the governing board by law, charter contract, or MCSAB policy.

For-Profit Vendors and Limited or Non-Comprehensive ESP Services

A charter school may contract with a for profit vendor (educational service provider) for limited, discrete, clearly defined services including educational, operational, technology, professional, administrative, financial-processing, back office support, curriculum, assessment, professional-development, transportation, food-service, custodial, therapy, legal, audit, or other support services, provided the arrangement does not confer comprehensive management, effective operational control, or authority reserved to the governing board. Such contracts shall ensure the governing board's independent decision making.

Anti-Circumvention

A charter school shall not structure multiple contracts, affiliate arrangements, side agreements, staffing arrangements, subcontracting arrangements, fiscal controls, licensing arrangements, loans, in-kind support, or layered service agreements for the purpose or effect of circumventing the nonprofit requirement for

comprehensive management, avoiding MCSAB review, avoiding the material-amendment process, or surrendering governing-board authority in practice.

Compliance Conditions

ESP and vendor agreements must comply with all applicable federal and state laws, the Mississippi Charter Schools Act, MCSAB regulations and policies, the charter contract, procurement requirements, conflict-of-interest requirements, criminal-background and child-abuse registry requirements, FERPA and student-data protections, public-records obligations, federal grant requirements where applicable, audit and records-retention requirements, and any MCSAB corrective action, monitoring, renewal, nonrenewal, revocation, or closure directive.

Existing Agreements and Transition

Within sixty (60) days after this policy becomes effective, or within another timeline established by MCSAB, each charter holder must submit a list of existing ESP agreements, management contracts, MOUs, substantial service agreements, related-party agreements, affiliate agreements, and vendor agreements that are central to the school's operations or mission. MCSAB may require production of any agreement for classification and may require a corrective action, amendment request, contract revision, termination plan, or transition plan if an existing arrangement violates law, the charter contract, or this policy.