

By: Representative Brown (66th)

To: Education

HOUSE BILL NO. 465

1 AN ACT TO AMEND SECTION 37-16-7, MISSISSIPPI CODE OF 1972, TO  
 2 REQUIRE THE STATE BOARD OF EDUCATION TO ADOPT A POLICY REQUIRING  
 3 SCHOOL DISTRICTS TO ALLOW A STUDENT WHO COMPLETES THE REQUIREMENTS  
 4 FOR GRADUATION TO BE AWARDED A STANDARD DIPLOMA REGARDLESS OF THE  
 5 STUDENT'S AGE; TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF  
 6 1972, TO EXCLUDE FROM THE DEFINITION OF "COMPULSORY-SCHOOL-AGE  
 7 CHILD" THOSE STUDENTS WHO GRADUATE FROM HIGH SCHOOL BEFORE  
 8 ATTAINING 17 YEARS OF AGE; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 37-16-7, Mississippi Code of 1972, is  
 11 amended as follows:

12 37-16-7. (1) Each district school board shall establish  
 13 standards for graduation from its schools which shall include as a  
 14 minimum:

15 (a) Mastery of minimum academic skills as measured by  
 16 assessments developed and administered by the State Board of  
 17 Education.

18 (b) Completion of a minimum number of academic credits,  
 19 and all other applicable requirements prescribed by the district  
 20 school board.



21 (c) By school, information on high school graduation  
22 rates. High schools with graduation rates lower than eighty  
23 percent (80%) must submit a detailed plan to the Mississippi  
24 Department of Education to restructure the high school experience  
25 to improve graduation rates.

26 (2) A student who meets all requirements prescribed in  
27 subsection (1) of this section shall be awarded a standard diploma  
28 in a form prescribed by the State Board of Education.

29 (3) The State Board of Education shall adopt a policy  
30 requiring the school board of each school district to allow a  
31 student who completes all requirements for graduation prescribed  
32 under subsection (1) of this section to be awarded a standard  
33 diploma regardless of the student's age at the time the graduation  
34 requirements are completed.

35 ( \* \* \*4) The State Board of Education may establish student  
36 proficiency standards for promotion to grade levels leading to  
37 graduation.

38 **SECTION 2.** Section 37-13-91, Mississippi Code of 1972, is  
39 amended as follows:

40 37-13-91. (1) This section shall be referred to as the  
41 "Mississippi Compulsory School Attendance Law."

42 (2) The following terms as used in this section are defined  
43 as follows:



44 (a) "Parent" means the father or mother to whom a child  
45 has been born, or the father or mother by whom a child has been  
46 legally adopted.

47 (b) "Guardian" means a guardian of the person of a  
48 child, other than a parent, who is legally appointed by a court of  
49 competent jurisdiction.

50 (c) "Custodian" means any person having the present  
51 care or custody of a child, other than a parent or guardian of the  
52 child.

53 (d) "School day" means not less than five (5) and not  
54 more than eight (8) hours of actual teaching in which both  
55 teachers and pupils are in regular attendance for scheduled  
56 schoolwork.

57 (e) "School" means any public school, including a  
58 charter school, in this state or any nonpublic school in this  
59 state which is in session each school year for at least one  
60 hundred eighty (180) school days, except that the "nonpublic"  
61 school term shall be the number of days that each school shall  
62 require for promotion from grade to grade.

63 (f) "Compulsory-school-age child" means a child who has  
64 attained or will attain the age of six (6) years on or before  
65 September 1 of the calendar year and who has not attained the age  
66 of seventeen (17) years on or before September 1 of the calendar  
67 year \* \* \* unless the child has graduated from a public school or  
68 nonpublic school before attaining the age of seventeen (17) years.



69 The term "compulsory-school-age" child shall include any child who  
70 has attained or will attain the age of five (5) years on or before  
71 September 1 and has enrolled in a full-day public school  
72 kindergarten program.

73 (g) "School attendance officer" means a person employed  
74 by the State Department of Education pursuant to Section 37-13-89.

75 (h) "Appropriate school official" means the  
76 superintendent of the school district, or his designee, or, in the  
77 case of a nonpublic school, the principal or the headmaster.

78 (i) "Nonpublic school" means an institution for the  
79 teaching of children, consisting of a physical plant, whether  
80 owned or leased, including a home, instructional staff members and  
81 students, and which is in session each school year. This  
82 definition shall include, but not be limited to, private, church,  
83 parochial and home instruction programs.

84 (3) A parent, guardian or custodian of a  
85 compulsory-school-age child in this state shall cause the child to  
86 enroll in and attend a public school or legitimate nonpublic  
87 school for the period of time that the child is of compulsory  
88 school age, except under the following circumstances:

89 (a) When a compulsory-school-age child is physically,  
90 mentally or emotionally incapable of attending school as  
91 determined by the appropriate school official based upon  
92 sufficient medical documentation.



93           (b) When a compulsory-school-age child is enrolled in  
94 and pursuing a course of special education, remedial education or  
95 education for handicapped or physically or mentally disadvantaged  
96 children.

97           (c) When a compulsory-school-age child is being  
98 educated in a legitimate home instruction program.

99           The parent, guardian or custodian of a compulsory-school-age  
100 child described in this subsection, or the parent, guardian or  
101 custodian of a compulsory-school-age child attending any charter  
102 school or nonpublic school, or the appropriate school official for  
103 any or all children attending a charter school or nonpublic school  
104 shall complete a "certificate of enrollment" in order to  
105 facilitate the administration of this section.

106           The form of the certificate of enrollment shall be prepared  
107 by the Office of Compulsory School Attendance Enforcement of the  
108 State Department of Education and shall be designed to obtain the  
109 following information only:

110                   (i) The name, address, telephone number and date  
111 of birth of the compulsory-school-age child;

112                   (ii) The name, address and telephone number of the  
113 parent, guardian or custodian of the compulsory-school-age child;

114                   (iii) A simple description of the type of  
115 education the compulsory-school-age child is receiving and, if the  
116 child is enrolled in a nonpublic school, the name and address of  
117 the school; and



118 (iv) The signature of the parent, guardian or  
119 custodian of the compulsory-school-age child or, for any or all  
120 compulsory-school-age child or children attending a charter school  
121 or nonpublic school, the signature of the appropriate school  
122 official and the date signed.

123 The certificate of enrollment shall be returned to the school  
124 attendance officer where the child resides on or before September  
125 15 of each year. Any parent, guardian or custodian found by the  
126 school attendance officer to be in noncompliance with this section  
127 shall comply, after written notice of the noncompliance by the  
128 school attendance officer, with this subsection within ten (10)  
129 days after the notice or be in violation of this section.  
130 However, in the event the child has been enrolled in a public  
131 school within fifteen (15) calendar days after the first day of  
132 the school year as required in subsection (6), the parent or  
133 custodian may, at a later date, enroll the child in a legitimate  
134 nonpublic school or legitimate home instruction program and send  
135 the certificate of enrollment to the school attendance officer and  
136 be in compliance with this subsection.

137 For the purposes of this subsection, a legitimate nonpublic  
138 school or legitimate home instruction program shall be those not  
139 operated or instituted for the purpose of avoiding or  
140 circumventing the compulsory attendance law.

141 (4) An "unlawful absence" is an absence for an entire school  
142 day or during part of a school day by a compulsory-school-age



143 child, which absence is not due to a valid excuse for temporary  
144 nonattendance. For purposes of reporting absenteeism under  
145 subsection (6) of this section, if a compulsory-school-age child  
146 has an absence that is more than thirty-seven percent (37%) of the  
147 instructional day, as fixed by the school board for the school at  
148 which the compulsory-school-age child is enrolled, the child must  
149 be considered absent the entire school day. Days missed from  
150 school due to disciplinary suspension shall not be considered an  
151 "excused" absence under this section. This subsection shall not  
152 apply to children enrolled in a nonpublic school.

153 Each of the following shall constitute a valid excuse for  
154 temporary nonattendance of a compulsory-school-age child enrolled  
155 in a noncharter public school, provided satisfactory evidence of  
156 the excuse is provided to the superintendent of the school  
157 district, or his designee:

158 (a) An absence is excused when the absence results from  
159 the compulsory-school-age child's attendance at an authorized  
160 school activity with the prior approval of the superintendent of  
161 the school district, or his designee. These activities may  
162 include field trips, athletic contests, student conventions,  
163 musical festivals and any similar activity.

164 (b) An absence is excused when the absence results from  
165 illness or injury which prevents the compulsory-school-age child  
166 from being physically able to attend school.



167 (c) An absence is excused when isolation of a  
168 compulsory-school-age child is ordered by the county health  
169 officer, by the State Board of Health or appropriate school  
170 official.

171 (d) An absence is excused when it results from the  
172 death or serious illness of a member of the immediate family of a  
173 compulsory-school-age child. The immediate family members of a  
174 compulsory-school-age child shall include children, spouse,  
175 grandparents, parents, brothers and sisters, including  
176 stepbrothers and stepsisters.

177 (e) An absence is excused when it results from a  
178 medical or dental appointment of a compulsory-school-age child.

179 (f) An absence is excused when it results from the  
180 attendance of a compulsory-school-age child at the proceedings of  
181 a court or an administrative tribunal if the child is a party to  
182 the action or under subpoena as a witness.

183 (g) An absence may be excused if the religion to which  
184 the compulsory-school-age child or the child's parents adheres,  
185 requires or suggests the observance of a religious event. The  
186 approval of the absence is within the discretion of the  
187 superintendent of the school district, or his designee, but  
188 approval should be granted unless the religion's observance is of  
189 such duration as to interfere with the education of the child.

190 (h) An absence may be excused when it is demonstrated  
191 to the satisfaction of the superintendent of the school district,





192 or his designee, that the purpose of the absence is to take  
193 advantage of a valid educational opportunity such as travel,  
194 including vacations or other family travel. Approval of the  
195 absence must be gained from the superintendent of the school  
196 district, or his designee, before the absence, but the approval  
197 shall not be unreasonably withheld.

198 (i) An absence may be excused when it is demonstrated  
199 to the satisfaction of the superintendent of the school district,  
200 or his designee, that conditions are sufficient to warrant the  
201 compulsory-school-age child's nonattendance. However, no absences  
202 shall be excused by the school district superintendent, or his  
203 designee, when any student suspensions or expulsions circumvent  
204 the intent and spirit of the compulsory attendance law.

205 (j) An absence is excused when it results from the  
206 attendance of a compulsory-school-age child participating in  
207 official organized events sponsored by the 4-H or Future Farmers  
208 of America (FFA). The excuse for the 4-H or FFA event must be  
209 provided in writing to the appropriate school superintendent by  
210 the Extension Agent or High School Agricultural Instructor/FFA  
211 Advisor.

212 (k) An absence is excused when it results from the  
213 compulsory-school-age child officially being employed to serve as  
214 a page at the State Capitol for the Mississippi House of  
215 Representatives or Senate.



216 (5) Any parent, guardian or custodian of a  
217 compulsory-school-age child subject to this section who refuses or  
218 willfully fails to perform any of the duties imposed upon him or  
219 her under this section or who intentionally falsifies any  
220 information required to be contained in a certificate of  
221 enrollment, shall be guilty of contributing to the neglect of a  
222 child and, upon conviction, shall be punished in accordance with  
223 Section 97-5-39.

224 Upon prosecution of a parent, guardian or custodian of a  
225 compulsory-school-age child for violation of this section, the  
226 presentation of evidence by the prosecutor that shows that the  
227 child has not been enrolled in school within eighteen (18)  
228 calendar days after the first day of the school year of the public  
229 school which the child is eligible to attend, or that the child  
230 has accumulated twelve (12) unlawful absences during the school  
231 year at the public school in which the child has been enrolled,  
232 shall establish a prima facie case that the child's parent,  
233 guardian or custodian is responsible for the absences and has  
234 refused or willfully failed to perform the duties imposed upon him  
235 or her under this section. However, no proceedings under this  
236 section shall be brought against a parent, guardian or custodian  
237 of a compulsory-school-age child unless the school attendance  
238 officer has contacted promptly the home of the child and has  
239 provided written notice to the parent, guardian or custodian of  
240 the requirement for the child's enrollment or attendance.



241 (6) If a compulsory-school-age child has not been enrolled  
242 in a school within fifteen (15) calendar days after the first day  
243 of the school year of the school which the child is eligible to  
244 attend or the child has accumulated five (5) unlawful absences  
245 during the school year of the public school in which the child is  
246 enrolled, the school district superintendent or his designee shall  
247 report, within two (2) school days or within five (5) calendar  
248 days, whichever is less, the absences to the school attendance  
249 officer. The State Department of Education shall prescribe a  
250 uniform method for schools to utilize in reporting the unlawful  
251 absences to the school attendance officer. The superintendent or  
252 his designee, also shall report any student suspensions or student  
253 expulsions to the school attendance officer when they occur.

254 (7) When a school attendance officer has made all attempts  
255 to secure enrollment and/or attendance of a compulsory-school-age  
256 child and is unable to effect the enrollment and/or attendance,  
257 the attendance officer shall file a petition with the youth court  
258 under Section 43-21-451 or shall file a petition in a court of  
259 competent jurisdiction as it pertains to parent or child.  
260 Sheriffs, deputy sheriffs and municipal law enforcement officers  
261 shall be fully authorized to investigate all cases of  
262 nonattendance and unlawful absences by compulsory-school-age  
263 children, and shall be authorized to file a petition with the  
264 youth court under Section 43-21-451 or file a petition or  
265 information in the court of competent jurisdiction as it pertains



266 to parent or child for violation of this section. The youth court  
267 shall expedite a hearing to make an appropriate adjudication and a  
268 disposition to ensure compliance with the Compulsory School  
269 Attendance Law, and may order the child to enroll or re-enroll in  
270 school. The superintendent of the school district to which the  
271 child is ordered may assign, in his discretion, the child to the  
272 alternative school program of the school established pursuant to  
273 Section 37-13-92.

274 (8) The State Board of Education shall adopt rules and  
275 regulations for the purpose of reprimanding any school  
276 superintendents who fail to timely report unexcused absences under  
277 the provisions of this section.

278 (9) Notwithstanding any provision or implication herein to  
279 the contrary, it is not the intention of this section to impair  
280 the primary right and the obligation of the parent or parents, or  
281 person or persons in loco parentis to a child, to choose the  
282 proper education and training for such child, and nothing in this  
283 section shall ever be construed to grant, by implication or  
284 otherwise, to the State of Mississippi, any of its officers,  
285 agencies or subdivisions any right or authority to control,  
286 manage, supervise or make any suggestion as to the control,  
287 management or supervision of any private or parochial school or  
288 institution for the education or training of children, of any kind  
289 whatsoever that is not a public school according to the laws of  
290 this state; and this section shall never be construed so as to



291 grant, by implication or otherwise, any right or authority to any  
292 state agency or other entity to control, manage, supervise,  
293 provide for or affect the operation, management, program,  
294 curriculum, admissions policy or discipline of any such school or  
295 home instruction program.

296         **SECTION 3.** This act shall take effect and be in force from  
297 and after July 1, 2014.

