

ETHICS & PROFESSIONALISM

The Municipal Attorney's Role in Effective
Strategy, Compliance & Management

Mississippi Municipal Attorney Association
Based on Mississippi Rules of Professional Conduct

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THE VIGNETTE: A Day in City Hall

The Situation
You are City Attorney for Magnolia Springs, Mississippi.

Monday Morning:
- Mayor requests advice on development agreement
- You draft ordinance and provide legal guidance

Wednesday Afternoon:
- Three Board members express concerns about potential conflict
- They want you to represent them against the Mayor

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Who is the Client?

Mississippi Rule 1.13(a)

THE MUNICIPALITY

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Mayor
 Board of Aldermen
 City Departments
Constituents, not clients

What This Means:

- Your client is the **municipality itself**
- Not individual officials or board members
- Acts through authorized representatives

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Conflicts of Interest: Rules 1.7 & 1.8		
Rule 1.7: Conflicts of Interest		
Lawyers cannot represent clients with directly adverse interests or when representation may be materially limited.		
Direct Adversity	Material Limitation	Using Information
Cannot represent if directly adverse to another client	Responsibilities to others may limit representation	Cannot use client information to their disadvantage
When branches take conflicting positions, you cannot represent one against the other—they are not separate clients.		

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The diagram illustrates the relationship between the Municipality and Loyalty. On the left, the word 'MUNICIPALITY' is written in a large, bold, sans-serif font. To its right, the word 'LOYALTY' is also written in a large, bold, sans-serif font. A horizontal arrow points from the 'MUNICIPALITY' text towards the 'LOYALTY' text. Below the 'MUNICIPALITY' text, the phrase 'Your sole client' is written in a smaller, regular, sans-serif font.

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THE VIGNETTE: The Conflict Emerges		
The Board's Request		
"We need you to represent us in litigation against the Mayor to stop this deal."		
Your Ethical Analysis:		
Who is the client? The City—not the Mayor or Board separately.	Can you represent the Board? No. This violates Rule 1.7.	Can you get consent? No. MS ethics opinions prohibit this.
Mississippi Bar Ethics Opinion 256: A municipal attorney may not represent one branch against another under any circumstances.		

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THE VIGNETTE: The Proper Response

What You Should Do

1. Explain Your Client Identity (Rule 1.13(d))

Clarify you represent the City organization, not individual officials.

2. Recommend Internal Resolution

Advise working through municipal procedures to resolve the dispute.

3. Suggest Independent Counsel

If litigation proceeds, both branches need separate representation.

Your role: Serve the municipality's best interests through neutral legal advice.

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Competence & Diligence: Rules 1.1 & 1.3

Rule 1.1: Competence

"A lawyer shall provide competent representation."

Rule 1.3: Diligence

"A lawyer shall act with reasonable diligence and promptness."

Municipal Attorney Duties:

- Stay current on municipal law
- Understand local government operations
- Master relevant state statutes
- Know when to seek expert help

Practical Application:

- Respond promptly to requests
- Meet legal deadlines
- Follow through on commitments
- Maintain organized case management

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Communication: Rule 1.4

"A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information."

Essential Communication Duties

Inform

Explain

Respond

Keep officials informed of significant developments and legal options

Explain matters to permit informed decisions

Respond promptly to requests from authorized officials

Special Consideration:

Communicate through proper channels to authorized officials, not individual constituents.

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Confidentiality: Rule 1.6

A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent.

The Municipal Context

Client Confidences	Public Records Laws
All information from municipal officials is confidential to the municipality	Balance privilege with Mississippi Public Records Act

Permitted Disclosures:

- Information impliedly authorized for representation
- To prevent death or substantial bodily harm
- To prevent client crime or fraud
- To comply with court order or law

Executive sessions protect attorney-client privilege

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When Officials Violate the Law: Rule 1.13(b)

If a lawyer knows that an officer or employee is engaged in action that is a violation of law that might be imputed to the organization, the lawyer shall proceed as is reasonably necessary in the best interest of the organization.

Your Escalation Duty

STEP 1 Ask for reconsideration	→	STEP 2 Refer to higher authority	→	STEP 3 Refer to highest authority
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Rule 1.13(c): Ultimate Option

If the highest authority insists on clearly illegal action that will cause substantial injury, you may resign.

Critical Balance: Protect the organization, not individual wrongdoing.

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VIGNETTE 2: Multiple Governmental Clients

The Situation

Law Firm A has built a successful municipal law practice in Mississippi. The firm represents the City Council for the City of Reykjavick and also represents the Board of Supervisors for Red County, the county in which Reykjavick is located.

Mississippi Bar Ethics Opinion 126
Addresses conflicts of interest when law firms represent multiple governmental entities

The Firm's Representation:

City of Reykjavick City Council	Red County Board of Supervisors
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The Ethics Questions

Three Issues to Analyze

Question 1

Is it unethical for Firm A to represent both the City of Reykjavik and the Red County Board of Supervisors?

Question 2

Is it unethical for Firm A to represent the Boards of Supervisors for two different counties?

Question 3

If no conflict exists *per se*, what action should the firm take if an actual conflict arises? Is the entire firm disqualified from participation?

These questions go to the heart of building a municipal law practice

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The Committee's Holding

NO CONFLICT *PER SE*

Question 1: City & County

It is not *per se* unethical for Firm A to represent both the City of Reykjavik and Red County Board of Supervisors.

Question 2: Multiple Counties

It is not *per se* unethical for Firm A to represent the Boards of Supervisors for two different counties.

Supporting Authority:

- ABA Informal Opinion 518 (1982) - dual representation of municipalities for contracts with full disclosure
- New York State Bar Opinion 468 (1977) - not improper for lawyer to be both town and village attorney
- Kentucky State Bar Opinion E-152 - similar guidance on multiple governmental clients

Key Principle: Governmental entities are separate clients, but representing multiple governmental bodies does not create an automatic conflict.

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When Actual Conflicts Arise

Question 3: Handling Actual Conflicts

Circumstances That Create Actual Conflicts:

Litigation Risk

Substantial likelihood of litigation between the governmental entities

Adverse Negotiations

Negotiations where outcome could benefit one at the expense of the other

Required Actions:

1. **Full Disclosure**
Provide complete disclosure to both clients about the nature of the conflict
2. **Obtain Informed Consent**
Secure consent after explaining circumstances and potential adverse effects
3. **Withdraw if Necessary**
If conflict cannot be resolved, withdraw from one or both representations

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Firm-Wide Disqualification?

Is the Entire Firm Disqualified?

Rule 1.10: Imputation

When a conflict arises that prevents one attorney from representing a client, it generally disqualifies the entire firm under Mississippi's imputation rule.

Best Practices for Multiple Governmental Clients:

- Conduct conflicts check before accepting new governmental clients
- Maintain clear documentation of representation scope
- Monitor for potential conflicts between governmental entities
- Have withdrawal protocols in place if conflicts arise
- Consider engagement letters that address potential conflicts

Building a municipal practice requires careful attention to conflict management

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VIGNETTE 3: The Liability Pool Dilemma

The Situation

You represent the City of Oakwood, which is a member of the Mississippi Municipal Liability Plan. This nonprofit corporation pools resources from multiple Mississippi municipalities to pay covered claims for member cities.

Mississippi Bar Ethics Opinion 188

Addresses conflicts when suing another municipality in the same liability pool

The Potential Lawsuit:

Your Client	VS	Defendant
City of Oakwood		City of Pineville

Both cities are members of the same Mississippi Municipal Liability Plan

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The Conflict Question

Is it a conflict of interest to sue another city when your success might increase your client's liability pool contributions?

The Concern:

If you successfully sue Pineville on behalf of Oakwood, the liability plan pays the judgment. This increases the pool's total claims, which could cause:

Higher Premiums All member cities pay more	Your Client Pays More Oakwood's contributions increase
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Does this indirect financial impact create a conflict of interest?

Key Facts: You've never represented Pineville, have no privileged information about them, and have no improper advantage.

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Opinion 188: The Committee's Answer

NO CONFLICT OF INTEREST

"There is no conflict of interest in a municipal attorney suing a municipality which he does not represent even though both municipalities are members of the same liability plan."

Rationale:

- You have never represented the defendant municipality (Pineville)
- You have no privileged information concerning Pineville
- You have no improper advantage against Pineville
- The possibility of increased premiums exists regardless of who represents Oakwood
- Any attorney suing Pineville would create the same potential financial impact

Key Principle: The indirect economic connection through a shared liability pool does not create an ethical conflict that would require disqualification.

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VIGNETTE 4: Generative AI in Practice

The Modern Challenge

As a municipal attorney, you're considering using generative AI tools like ChatGPT, Claude, or other platforms to help draft ordinances, research legal issues, and analyze municipal contracts more efficiently.

Mississippi Bar Ethics Opinion 267

Addresses ethical obligations when using generative AI in legal practice

Before You Start Using AI:

Confidentiality?

Accuracy?

Billing?

Disclosure?

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AI Ethical Duties: Part 1

1. Duty to Protect Confidentiality (Rule 1.6)

Affirmative Duty:

You must take reasonable measures and precautions to protect client confidentiality when using AI

→ Understand AI tool's data handling policies → Avoid "self-learning" AI without consent → Review Terms of Service carefully

2. Duty to Verify Accuracy (Rule 1.1)

Affirmative Duty:

You must verify the accuracy and sufficiency of ALL work performed by AI

→ AI can "hallucinate" fake cases → Verify all legal citations independently → You remain professionally responsible

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AI Ethical Duties: Part 2

3. Duty on Billing Practices (Rule 1.5)

Affirmative Duty:

You must review costs and fees to ensure billing practices don't duplicate charges or inflate hours

Cannot bill full hourly rate for AI-assisted work Adjust billing to reflect actual time and AI assistance Be transparent about efficiency gains

4. Duty to Disclose AI Use (Rule 1.4)

When Disclosure Required:

- When client charged for AI tool costs
- When confidential information provided to third-party AI
- When risk of inadvertent disclosure despite safeguards

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Opinion 267: The Bottom Line

Lawyers May Ethically Use Generative AI

Provided the Lawyer:

- Makes appropriate safeguards to protect client confidential information
- Is competent to use the technology and understands its limitations
- Takes precautions to verify the accuracy of the tool's output
- Uses reasonable billing practices
- Obtains client's informed consent when appropriate

Best Practices for Municipal Attorneys:

Develop firm policies on AI use Train staff on AI ethical obligations Stay current with evolving technology Document AI tool selection and use

AI is a tool—not a replacement for professional judgment and ethical responsibility

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The Municipal Attorney's Strategic Role

Beyond Legal Advisor: Compliance Manager

Preventive Law	Risk Management	Strategic Planning
<ul style="list-style-type: none"> Draft clear policies and procedures Conduct compliance training Review contracts before execution Anticipate legal risks 	<ul style="list-style-type: none"> Identify potential liabilities Develop mitigation strategies Monitor compliance systems Advise on insurance needs 	<ul style="list-style-type: none"> Align legal strategy with municipal goals Advise on legislative initiatives Structure transactions efficiently Support economic development

Rule 2.1: Advisor Role
"In representing a client, a lawyer shall exercise independent professional judgment and render candid advice."

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Effective Management Practices		
1 Establish Clear Protocols	2 Document Legal Advice	3 Maintain Independence
Best Practices for Municipal Attorneys: <ul style="list-style-type: none"> -Create written engagement terms defining scope of representation -Implement conflict-checking systems for multiple representations -Maintain detailed matter files and time records -Provide legal opinions in writing when addressing significant issues -Establish regular communication schedules with key officials 		
Professional Independence (Rule 5.4) <p>A lawyer shall not permit a person who employs or pays the lawyer to direct or regulate the lawyer's professional judgment. Your allegiance is to the law and the client, not to individual officials.</p>		

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Common Ethical Pitfalls to Avoid		
Pitfall #1 Taking Sides Representing one branch against another or favoring individual officials over the organization	Pitfall #2 Blurred Boundaries Failing to clarify who the client is when interests become adverse	Pitfall #3 Silent Complicity Remaining silent when officials engage in illegal conduct that harms the municipality
Pitfall #4 Personal Conflicts Having financial or personal interests that compromise professional judgment	Pitfall #5 Political Pressure Allowing political considerations to override legal and ethical obligations	Pitfall #6 Poor Documentation Failing to document advice, creating exposure for both attorney and municipality

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Mississippi-Specific Considerations	
Mississippi Public Records Act <ul style="list-style-type: none"> -Balance transparency with attorney-client privilege -Understand exemptions for legal advice -Properly invoke executive session protections Mississippi Bar Ethics Opinion 255 <p>Specifically addresses municipal attorney conflicts—a lawyer cannot represent one branch of municipal government against another, even with informed consent.</p>	Mississippi Open Meetings Act <ul style="list-style-type: none"> -Advise on proper notice requirements -Guide executive session procedures -Ensure compliance with posting rules
Key Mississippi Resources: <ul style="list-style-type: none"> -Mississippi Rules of Professional Conduct -Mississippi Bar Ethics Opinions -Mississippi Code Title 21 (Municipalities) -Mississippi Municipal League resources 	

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Key Takeaways

KNOW YOUR CLIENT	MAINTAIN LOYALTY	ACT INDEPENDENTLY
The municipality is your sole client, not individual officials or branches	Undivided loyalty to the organization means neutrality in internal disputes	Exercise independent judgment free from political pressure or personal interests

Your Professional Duties:

- Provide competent representation to your municipal client
- Communicate clearly with authorized officials
- Maintain confidentiality while respecting public records laws
- Clarify your role when interests become adverse
- Never represent one branch against another

Your ethical obligations are the foundation of effective legal service and municipal governance.

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QUESTIONS & DISCUSSION

Ethics & Professionalism in Municipal Law

For additional guidance, consult:

- Mississippi Rules of Professional Conduct
- The Mississippi Bar Ethics Opinions
- Mississippi Municipal Attorney Association

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