MISSISSIPPI MUNICIPAL ATTORNEYS ASSOCIATION

2026 SUMMER CLE SEMINAR

Attorney General Opinions Update

(for January 1, 2026 – June 26, 2026)

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I. PREFACE

The Mississippi Attorney General ("AG") is compelled to give written (official) opinions (without fee) to various public officials. This duty is set forth in Miss. Code Ann. § 7-5-25 (Rev. 2019) – see attached. Section 7-5-25 lists the specific officials who can request these opinions. Included in this list, among others, are the "boards of supervisors of the several counties, the sheriffs, the chancery clerks, the circuit clerks, the superintendents of education, the tax assessors, county surveyors, the county attorneys, the attorneys for the boards of supervisors, mayor or council or board of aldermen of any municipality of this state, and all other county officers (and no others)....". According to the statute (§ 7-5-25), requests for these opinions must be "in writing." The requirement that the AG issue these official opinions is "upon any question of law relating to [these officials'] respective offices."[1]

As discussed previously, the process for requesting and receiving opinions has changed within the past several years. Requests for opinions must be submitted electronically through the AG's website and via a set digital form in addition to a written letter on letterhead of the requesting party (see Exhibits 1 and 2 attached hereto). According to the AG's website, opinions are attempted to be issued within 100 days after receipt. For qualifying requests that are "emergencies," opinions are attempted to be issued within 45 days after receipt. In order to request an expedited opinion, the requesting party must minimally set forth: (1) the specific circumstances that necessitate an expedited opinion; **and** (2) the date by which the expedited opinion is needed. If the AG determines the emergency to be legitimate, "reasonable efforts shall be made to accommodate the request for an expedited response."[2]

As a matter of course, the AG will NOT issue an official opinion that requires it to interpret municipal ordinances. *See* Miss. Atty Gen. Op. to Cruthird (Aug. 14, 1995).

Why an AG Opinion? Attorneys representing elected officials of political subdivisions may have several different reasons for requesting an official opinion from the AG. Section 7-5-25 provides the primary reason:

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[1]Section 7-5-23 of the Mississippi Code (see attached) requires the Attorney General to keep an "opinion book," "in which he shall record or cause to be recorded each and every opinion given by him, or by his assistants, in pursuant of law. ***Each of his opinions shall be prefaced with a clear and concise statement of the facts upon which it is predicated***. The 'opinion-book' shall be kept well indexed, both as to subject matters and parties." (Emphasis added).

[2]For a copy of the AG's protocol for requesting official opinions (from the AG's website), *see* Exhibit 3 attached hereto.

> *"When any officer, board, commission, department or person authorized by this section to require such written opinion of the Attorney General shall have done so and shall have stated all the facts to govern such opinion, and the Attorney General has prepared and delivered a legal opinion with reference thereto,* ***there shall be no liability, civil or criminal, accruing to or against any such officer, board, commission, department or person who, in good faith, follows the direction of such opinion and acts in accordance therewith*** *unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without any substantial support. However, if a court of competent jurisdiction makes such a judicial declaration about a written opinion of the Attorney General that applies to acts or omissions of any licensee to which Section 63-19-57, 75-67-137 or 75-67-245 applies, and the licensee has acted in conformity with that written opinion, the liability of the licensee shall be governed by Section 63-19-57, 75-67-137 or 7567-245, as the case may be. No opinion shall be given or considered if the opinion is given after suit is filed or prosecution begun."*

Miss. Code Ann. § 7-5-25 (Rev. 2019) (emphasis added). If a court of competent jurisdiction (after a full hearing) determines that an opinion is manifestly wrong and without substantial support, the opinion provides no protection. *See e.g.*, City of Durant v. Laws Construction Co., Inc., 721 So. 2d 598, 603 (Miss. 1998). The Supreme Court, when determining that an AG opinion is erroneous, has historically applied the correct construction prospectively, thereby not penalizing a party's reliance on the erroneous opinion. *See e.g.*, Meeks v. Tallahatchie County, 513 So. 2d 563, 568 (Miss. 1987); *but see* U. S. v. Tunica County School District, 323 F.Supp. 1019 (N.D.Miss. 1970), aff'd 440 F.2d 377 (5th Cir. 1971) (holding that AG opinion infected with unconstitutionality does not provide protection from challenges to those relying on it).

A party is insulated from liability only when they are relying on an opinion specifically written (addressed) **to them** – and not to someone else. For example, the Supreme Court found that AG's opinions were manifestly wrong in City of Durant v. Laws Construction Co., Inc. and the City then argued that it should not be penalized because it had relied on them. The Court was quick to point out, though, that a municipality cannot merely rely on opinions issued to others.

In addition, AG opinions that might slip through and be issued on matters that are already in litigation are ineffectual. *See e.g.*, SASS Muni-V, LLC v. DeSoto County, 170 So. 3d 441, 447, n. 5 (Miss. 2015). Also, opinions have to be in writing (phone conversations do not meet the statutory requirement). *See e.g.*, Meeks v. Tallahatchie County, 513 So. 2d 563, 567, n. 1 (Miss. 1987); State ex rel. Summer v. Denton, 382 So. 2d 461 (Miss. 1980).

Plus, an AG opinion that is based on a request that did not provide all of the relevant facts necessary for such an opinion is equally ineffectual. *See e.g.*, State ex rel. Summer, 382 So. 2d at 467-68.

Moreover, reliance on an AG opinion is no defense to failure to comply with a court order. *See* Donaldson v. Cotton, 336 So. 2d 1099, 1113 (Miss. 2022).

With respect to litigation, the Supreme Court has recognized that, while AG opinions are not binding, "they are certainly useful in providing guidance to this Court." In re Assessment of Ad Valorem Taxes on Leasehold Interest Held by Reed Manufacturing, Inc. ex rel Itawamba County Board of Supervisors, 854 So. 2d 1066, 1071 (Miss. 2003); *see also* Madison County v. Hopkins, 857 So. 2d 43, 50 (Miss. 2003).

However, the Court has also previously held that AG Opinions "given after suit is filed or prosecution begun" are officially not relevant and should be inadmissible in court proceedings. *See* State ex rel. Smith v. Morgan, 361 So. 2d 338, 341 (Miss. 1978) (finding trial court's admission of AG Opinion into evidence that was previously issued after suit was filed, while improper, did not prejudice the appellant and constituted harmless error).

Some Courts, when reviewing past actions taken by municipalities, have made mention of whether city officials had previously sought an opinion from the AG. *See e.g.*, Hemphill Construction Company, Inc. v. City of Laurel, 760 So. 2d 720, 721 (Miss. 2000).

II. VARIOUS ATTORNEY GENERAL OPINIONS ISSUED FROM JANUARY 1, 2026, THROUGH JUNE 30, 2026

1.	**Lamar – AG Opinion Issued on January 7, 2026 (OP # 00142)** It is not lawful for a school board to enact a policy prohibiting a member of the public with an enhanced carry permit from bringing a concealed firearm to athletic events on school grounds. As noted in MS AG Op., *Cantrell* at *4, the State Legislature has expressly stated in Section 97-37-7(2) that "an enhanced permit holder 'shall also be authorized to carry weapons in . . . any location listed in subsection (13) of [S]ection 45-9-101.'" Such locations include "any elementary or secondary school facility" and "any school, college or professional athletic event not related to firearms." Miss. Code Ann. § 45-9-101(13).
2.	**Ross – AG Opinion Issued on January 9, 2026 (OP # 00148)** The State nepotism statute (Miss. Code Ann. § 25-1-53) identifies five prohibited classes of employment: "an officer, clerk, stenographer, deputy or assistant." *See* MS AG Op., Meek at * 1 (Oct. 26, 2007). The position at issue in this Opinion was not a "clerk" but a "cashier/clerk." The AG opined here that whether a "cashier/clerk" position encompasses the same duties as a "clerk," as set forth in § 25-1-53, is a factual determination to be made by the City's governing authority. If the governing authority makes a proper finding / determination that the duties of "cashier/clerk" are not the same as the duties of "clerk," the City may hire a council member's child for the subject position (cashier / clerk) without violating the nepotism statute. NOTE: The AG referred the opinion requester to the Mississippi Ethics Commission for questions regarding potential conflicts of interest.
3.	**Weatherford – AG Opinion Issued on January 12, 2026 (OP # 00080)** A constable does not by his or her elected position alone, qualify as a "law enforcement officer" in our State. Since the "Real Property Owners Protection Act" that took effect on July 1, 2025, (House Bill No. 1200) states that to commence the process of expelling a "squatter," a sworn affidavit must be filed with "the law enforcement agency" of the city, county or political subdivision in which the property in question is located, only "the" applicable / appropriate "law enforcement agency" is involved in this process and its agents (i.e., law enforcement officers). Because "law enforcement agency" is not defined in this legislation, the Act does not specifically provide for a "constable" to enforce its provisions, and a constable is not a "law enforcement officer" unless he or she independently meets separate criteria associated with the same, an opinion as to "whether constables fall within the definition of 'law enforcement agency' under the Act

	would require determinations of fact beyond the scope of an official opinion."
4.	**McRae – AG Opinion Issued on January 23, 2026 (OP # 00160)** Where the State Treasurer and Executive Director of the Department of Finance and Administration determine (1) that taxes from medical cannabis sales are excess funds and (2) that the excess funds are not required to meet the current needs or demands of no more than seven days on the funds, and the State Treasurer also determines (3) that the excess funds cannot be invested according to Miss. Code Ann. § 27-105-33(a)-(c), then the Treasurer can invest the excess funds in any of the types of investments stated in § 27-105-33(d). The question here was whether excess funds collected from state-imposed taxes on medical cannabis could be invested in an SEC-registered money market fund. Whether such an investment is allowable is ultimately a fact determination to be made by the State Treasurer under § 27-105-33(d).
5.	**Davis – AG Opinion Issued on February 12, 2026 (OP # 00150)** A private landowner may not modify a drainage ditch owned and maintained by a drainage district organized and created pursuant to Miss. Code Ann. § 51-29-1. While the State Supreme Court has previously found that such districts" have no power not given to them by the statutes," the Court has also held that such a district has "exclusive control over the maintenance of the drainage canal." *See* Beaver Dam Drainage District v. McClain, 133 So. 2d 615, 617 (Miss. 1961). Therefore, only a drainage district may make improvements to or modify a ditch owned by it (and must do so in accordance with the provisions of § 51-29-1.
6.	**Liddell – AG Opinion Issued on February 12, 2026 (OP # 00007)** The question here was whether an elected Sheriff could have a part-time job with the local school district or whether this would violate the separation of powers doctrine, which prohibits a person in one branch of government from simultaneously serving in another branch of government. *See* MISS. CONST. Art. I, §§ 1-2. The State Supreme Court has interpreted these provisions as precluding someone from simultaneously exercising "core powers" in two (2) different branches of government. "Core powers" are those that relate to acts at the "upper level of government affairs" and have a "substantial policy-making character. A Sheriff exercises core powers within the "executive" branch. Thus, as long as the part-time job either is in the "executive" branch or does not exercise "core powers" in the legislative or judicial branches of government, there would be no violation of this doctrine here.

7.	**Kirk-Taylor – AG Opinion Issued on March 10, 2026 (OP # 00011)** Once a municipal prisoner being housed at a County facility is bound over to a grand jury for indictment, it is the responsibility of the County to pay for the upkeep and expenses of this prisoner. And this responsibility exists regardless of whether the prisoner is ultimately indicted. NOTE: The AG has previously opined that a city prisoner becomes a county prisoner when the prisoner is either (1) bound over to the grand jury at a preliminary hearing OR (2) waives this preliminary hearing.
8.	**Mayo – AG Opinion Issued on March 10, 2026 (OP # 00008)** The question here was who is the "agency head" for the Mississippi Board of Education for purposes of Miss. Code Ann. § 25-65-5(d) (the Mississippi Internal Audit Act) – the State Superintendent of Education or the State Board of Education. The AG opined, based on a "plain reading" of this statute, that the State Board of Education is the agency head of the Department of Education. As the AG noted, while § 37-3-9(1) states that the State Superintendent "shall be the Chief Administrative Officer of the State Board of Education," the State Superintendent is appointed by the Board of Education with the advice and consent of the Senate and "serves at the board's will and pleasure." Miss. Code Ann. § 37-3-9(1). It is thus implied that the SBE stands above the State Superintendent given that he is appointed by the board and serves at their pleasure. *See* Miss. Code Ann. § 37-3-9(1). Therefore, it is the opinion of this office that the SBE, as "a governing board ... responsible for heading an agency [,]" is the only entity that meets the definition of "agency head" under Section 25-65-5(d). See Miss. Code Ann. § 25-65-5(d).
9.	**Johnson – AG Opinion Issued on March 18, 2026 (OP # 00089)** The question here was who may use blue lights and sirens to escort an "oversize" load traveling on a state highway. The AG noted that the Mississippi Department of Transportation's "Permit and Motor Carrier Division Manual" sets out permit requirements for "oversized" loads and for "super loads" and sets out the criteria for each of these different types of loads. That said, while Miss. Code Ann. § 63-5-49(6) authorizes several different specific officials to escort "superload" vehicles, there is no statutory provision applicable to "oversize" loads or vehicles. In addition, § 63-7-19 provides that "[o]nly police vehicles used for emergency work may be marked with blinking, oscillating or rotating blue lights to war other vehicles to yield the right-of-way." In addition, it is unlawful for anyone other than a law enforcement officer on duty "to use or display blue lights on a motor vehicle as provided for in Section 63-7-19."

10.	**White – AG Opinion Issued on March 30, 2026 (OP # 00026)** The Federal "Working Families Tax Cuts Act" established "Trump accounts," which provide for the creation of tax-advantaged investment accounts for eligible children. *See* 26 U.S.C. § 530A. The question here was whether State agencies could contribute to such accounts as "an employee benefit" to their employees. The types of compensation and benefits available to State employees are provided by State law, and because there currently exists no statutory framework in Mississippi for State agencies to provide contributions to these sorts of accounts as an employee benefit, these are not permitted at this time.
11.	**Rogers – AG Opinion Issued on March 30, 2026 (OP # 00018)** Section 27-17-9 requires "[e]very person desiring to engage in any business" to "apply for, pay for and procure from the tax collector of the municipality, a privilege license authorizing him to engage in the business" and to pay the local privilege tax set forth in that section. "Business" is defined as "all activities or acts, personal, professional or corporate, engaged in or caused to be engaged in with the object of gain, profit, benefit or advantage, either direct or indirect, or following or engaging in any trade, calling or profession, and all things which occupy the time, attention and labor of individuals for the purpose of a livelihood or profit." Miss. Code Ann. § 27-17-3. Whether a particular bank "constitutes a business for the purpose of obtaining a privilege license under" Section 27-17-3 "is ultimately a question of fact" to be determined by a city's governing authority "on a case by case basis." *See* Miss. Att'y Gen. Op. to Campbell, Jr. at * 1 (Mar. 25, 2005). The AG here opined that if a governing authority determines that a particular bank constitutes a business under the definition of § 27-17-3, the bank is required to obtain a privilege license to conduct business in the municipality and pay the local privilege tax specified in § 27-17-9(2). The AG further opined that there is no exemption for banks from the local privilege tax.
12.	**Pulley – AG Opinion Issued on April 8, 2026 (OP #)** Whether property qualifies for tax exemption under Section 27-31-1 is a fact determination to be made by the board of supervisors. Whether the property's ownership or use determines eligibility is dependent upon the exemption being sought under Miss. Code Ann. § 27-31-1. *See* Currie-Finch Brick & Lumber Co. v. Miller, 86 So. 579, 579 (Miss. 1920) ("[T]he party must come strictly within the statute allowing the exemption to obtain an exemption."). Additionally, "receipt of a 501(c)(3) tax exemption alone does not qualify an entity to be exempt from ad valorem taxation." *See* Miss. Att'y Gen. Op. to McWilliams at *1 (Dec. 28, 1999). Whether the exemption is affected if the church receives rental payments from the school is dependent upon the exemption being sought under Section 27-31-1. Whether mixed or dual use impacts exemption eligibility is dependent upon the exemption

	being sought under Section 27-31-1. While some exemptions require exclusive use, others do not.
13.	**Brandon – AG Opinion Issued on April 16, 2026 (OP #)** There is no statutory authority for Counties to unilaterally designate a 40-foot right-of-way easement along County roads. A County may permit utilities to be installed if the County's board of supervisors determines that such work falls within the scope of a legitimate prescriptive right-of-way easement held by the County.
14.	**Chism – AG Opinion Issued on May 11, 2026 (OP #)** The AG was presented here with a request from a State Senator asking questions related to "true value" determinations associated with Property Tax Assessments and whether the Mississippi Department of Revenue has the authority to adjust the true value of properties through equalization to a level that exceeds their appraised or market value. The AG noted that Miss. Code Ann. § 27-35-113 addressed MDOR's authority and that MDOR can "adjust and equalize" property in certain circumstances that are fact determinative. NOTE: The AG noted that it cannot opine upon regulations or guidelines (e.g., those of MDOR) but only on matters of State law.
15.	**Caves – AG Opinion Issued on May 11, 2026 (OP #)** The question here was whether a County can enter upon private property to repair a dam that was damaged due to beaver activities in a pond and with the understanding that if left unrepaired, the breached dam threatened to wash out a nearby public road. The AG opined that if the Board meets the requirements set forth in Miss. Code Ann. § 19-5-92.1(1)-(2), including but not limited to making the factual determinations that (a) the work to repair the dam falls within the category of allowances set forth in § 19-5-92.1(1), and (b) doing so will (1) promote the "health, comfort and convenience of the inhabitants of the county," and (2) "promote the public health, safety and welfare of the citizens of the county," the County may repair the dam.
16.	**Hunt – AG Opinion Issued on May 14, 2026 (OP #)** The AG here opined that as long as a City "public utilities commission" treats all employees within each group in the same manner, the commission can establish two different groups of employees based on their participation in a health awareness program. In this particular Opinion, the commission was proposing to provide health insurance for their employees and their dependents but in two different groups of employees based on whether they chose to participate in a health-conscience / awareness program: (1) for employees who choose to participate in the program, the commission will pay 100% of the cost of these employees' insurance coverage; and (2) for employees who choose not to participate in the program, the commission will only pay

	70% of the total coverage costs for them. Again, the AG here opined that it is permissible for the commission to establish two groups of employees, based on their voluntary participation in the program, and pay different costs of group insurance for such employees or provide different coverages for them, provided that the commission treats all employees within the same group in the same manner.
17.	**DuPree – AG Opinion Issued on May 14, 2026 (OP- #)** A Mississippi state senator may run for a justice court judgeship and continue to serve in the Mississippi State Senate. However, upon taking the oath to serve as a justice court judge, the individual may not continue to serve in the Mississippi State Senate as this would violate the separation of powers doctrine.
18.	**Thaggard – AG Opinion Issued on May 14, 2026 (OP #)** Section 65-7-81 of the Mississippi Code gives County Boards of Supervisors discretionary authority, subject to the approval of the Mississippi Department of Transportation, to maintain state highways within their Counties, including installing culverts and providing ingress and egress from private property to the state highways where it is necessary for the preservation and maintenance of the highways. The actual "types" of maintenance necessary for the preservation and maintenance of roads are ultimately "determinations of fact" to be made by a Board of Supervisors subject to review by a court of competent jurisdiction.
19.	**Poval – AG Opinion Issued on June 8, 2026 (OP #)** A City may not terminate the water services of a property owner located outside its corporate limits solely because he or she rejects proposed "new" sanitary sewer services (from the City). There is no statutory authority for a municipality to sue to compel (by way of injunctive relief) the owner of a septic system to connect to the town's sewer system. Nothing in the law prohibits the City from contacting the State Department of Health to ask for assistance.
20.	**Graves – AG Opinion Issued on June 8, 2026 (OP #)** This request asked for assistance with respect to an Alderman interfering with the day-to-day operations of a Code Charter municipality and what steps could be taken to ensure the Alderman does not overstep his duties. Sections 21-3-1 *et seq*. of the Mississippi Code set forth the duties of the Mayor and Aldermen in this form of government. Whether the specific actions of an Alderman amount to directing the day-to-day operations of the municipality is a determination of fact "to be made by the governing authorities, subject to review by a court of competent jurisdiction." *See* Miss. Att'y Gen. Op. to *Mims* at *2 (Aug. 15, 2014). Also, there is nothing in the applicable statutes allowing for mayoral discipline of Aldermen.

	This same topic appears to come up quite often (Aldermen interference with Mayoral duties). *See e.g.*, Miss. Att'y Gen. Op. to *Miller* at *1-2 (Mar. 5, 2010) ("[A]n individual alderman has no authority to direct the daily activities of municipal employees or to become involved in the direction of a department or department head."); Miss. Att'y Gen. Op. to *Via* at *1 (Dec. 10, 2004) (providing that an alderman is prohibited from making departmental administrative decisions as these actions "may constitute a violation of the separation of powers doctrine"); Miss. Att'y Gen. Op. to *Freeman* at *1 (July 11, 2025) ("[T]he mayor's superintending control means the general oversight and supervision of municipal departments and employees [and] all the officers, employees and affairs of the municipality.") (Internal quotations and citation omitted).