



Lynn Fitch

ATTORNEY GENERAL
OPINIONS AND POLICY

MS ATTORNEY GENERAL'S OFFICE **OFFICIAL OPINION PROCESS**

Issuing legal opinions to Mississippi governmental entities is a very important function of the Office of the Attorney General. Attorney General Opinions serve to provide legal advice on questions of statutory interpretation to public bodies. Opinions of the Attorney General are advisory only and not binding in a court of law. However, an official written opinion of the Attorney General statutorily affords protection to the requesting public official against civil and/or criminal liability if such official, in good faith, follows the direction of the opinion and acts in accordance.

Attorney General Opinions are intended to address only questions of state law. Official opinions cannot answer questions of federal law, questions of fact, mixed questions of fact and law, or questions of executive, legislative, or administrative policy. *An Attorney General Opinion is not a substitute for the advice and counsel of the attorneys who represent governmental agencies and officials on a day-to-day basis.*

1. Opinion Requests. Requests for official opinions must be submitted electronically through the Attorney General's website. A requesting party must electronically submit a completed "Request for an Official Attorney General's Opinion" form as well as an official request letter on official letterhead.
 - a. If an official opinion is needed on short notice, the requestor may ask for an expedited response and set forth the specific circumstances that necessitate an expedited opinion, including the date by which the opinion must be issued. If an emergency is determined to be legitimate, reasonable efforts shall be made to accommodate the request for an expedited response.
 - b. The Opinions Division will aim to turn around requests within 100 days after receipt. If it is an emergency request, the Opinions Division will aim to turn around requests within 45 days after receipt. Of course, this time frame could be changed depending upon the nature of the request.
2. To Whom Requests May Be Issued. Official opinions of the Attorney General may be issued only to the following officials and entities:
 - Any state-wide elected official;

- Any state agency, board, or commission;
- Member of the Legislature;
- District Attorneys;
- Any County Officer, i.e., boards of supervisors, sheriffs, chancery clerks, circuit clerks, superintendents of education, tax assessors, and county surveyors;
- Mayors, city councils, and boards of aldermen.

3. Subject Matter of Requests. Requests for official opinions may only seek an interpretation of Mississippi statutory law. The Office of the Attorney General **will decline** to issue an official opinion upon any of the following questions:

- Questions of a speculative nature;
- Questions involving federal law;
- Questions interpreting contracts;
- Questions requiring factual determinations;
- Questions which cannot be resolved due to an irreconcilable conflict in the laws;
- Questions of executive, legislative, or administrative policy;
- Questions on matters that are addressed in proposed legislation currently before the Legislature;
- Questions pending before a court or administrative forum;
- Questions involving only an interpretation of local codes, charters, ordinances, or regulations;
- Questions involving the official duties of someone other than the requestor;
or
- Questions the official or agency has already acted on (past actions) and is seeking to justify (such as the expenditure of public funds or the adoption of an ordinance).

4. Acknowledgement of Opinion Requests. Receipt of a proper request is acknowledged by electronic correspondence to the requestor within three (3) business days of receipt. If the request is not one upon which the Opinions Division can opine because it is from an improper official or entity or involves an improper question, the requestor will be notified of such by electronic correspondence.

5. Requests for Withdrawal. A request for withdrawal of a pending opinion may be made at any time by the requesting party. A request for a withdrawal must be made electronically through the website. A request for withdrawal made after the opinion is in the drafting process is subject to the discretion of the Office of the Attorney General and may not be granted if it is determined significant time and effort has already been expended in drafting

an opinion in response to the request. If the withdrawal is granted, the requesting party will receive electronic correspondence acknowledging the withdrawal.

6. Opinion Review. Draft opinions are subject to a rigorous review process prior to final review by the Attorney General including, but not limited to, review by the Opinions Committee, which consists of the Deputy Attorney General over Opinions, Solicitor General, and the Division Directors for Opinions, Civil Litigation, Criminal Litigation, and State Agencies. The Opinions Committee meets every month, but may meet more often, dependent upon the volume of pending opinion requests or any request seeking an expedited response.
7. Opinion Approval. Upon the Attorney General's approval, the final opinion is issued to the requesting party by electronic correspondence and posted on the website.
8. Publication of Issued Opinions. A comprehensive summary outline of all official opinions issued each month is published on the Attorney General's website. Furthermore, a searchable database of published opinions is available through the website as well as Lexis and Westlaw.
9. Request for Reconsideration. A requestor may request an official opinion be reconsidered. Such a request must be submitted in the same form as any other opinion request, cite the opinion to be reconsidered and set forth the reasons for which the opinion should be reconsidered.