



ATTORNEY GENERAL'S OPINION OUTLINE

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The purpose of the Opinion Outline is to inform state, county and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from February 1, 2018 through February 28, 2018. When opinions are of state-wide application or interest, we will try to publish the entire opinion.

The following opinion outlines are based upon opinions that were issued by this office in response to specific facts and circumstances and therefore may not be applicable in all cases.

Complete opinions are also available on our internet website at: agjimhood.com

Very truly yours,

Jim Hood
Attorney General

AIRPORTS

A municipal airport authority should turn over any lost, stolen, abandoned or misplaced personal property found and stored on its property to the municipality for disposal in accordance with Section 21-39-21. (Bass,2/16/2018)(#002)(OP-2018-00023)

CONSTABLE

The court may find a constable guilty of a misdemeanor for wilful neglect of duty under Section 97-11-37, and may also impose penalties for contempt. In addition, for wilful neglect of duty, a constable is subject to indictment and removal from office under Article 6, Section 175 of the Mississippi Constitution of 1890. (Smith,2/16/2018)(#045)(OP-2018-00008)

COUNTIES-CLASSIFICATIONS

Mississippi Code Section 19-7-3 provides that the board of supervisors may sell, convey and lease real estate on such terms as the board may elect when the board determines the property will no longer be used for county purposes. (Sutton,2/9/2018)(#049)(OP-2018-00018)

DEPARTMENT OF EDUCATION

Whether an adult education and workforce training program for parents and caregivers of prekindergarten students meets the program criteria under the Early Learning Collaborative Act should be determined by the Mississippi Department of Education pursuant to its authority under the Act. (Hill,2/23/2018)(#058)(OP-2018-00028)

DISTRICT ATTORNEYS

Section 47-7-3(1)(g)(i) provides that no person who, after July 1, 2014, is convicted of a crime of violence pursuant to Section 97-3-2 is eligible for parole. (Colom,2/16/2018)(#059)(OP-2017-00409)

ELECTIONS-GENERAL

The next election for the board members representing the territory outside the West Point corporate limits should occur in November 2018 with subsequent elections occurring every 4 years after that. In accordance with Sections 37-7-104.2 and 37-7-201, the board members elected to represent the territory outside the West Point corporate limits should be residents and qualified electors of that territory. Petitions of nomination should be filed in the circuit clerk's office, "not more than ninety (90) days and by 5:00 p.m. not less than sixty (60) days prior to the date of such election," in accordance with Section 37-7-225. (Ivy,2/23/2018)(#067)(OP-2018-00026)

INTERLOCAL AGREEMENTS

The Interlocal Cooperation Agreement between Madison County and the City of Madison regarding the funding of certain street improvements (2018 Program) is approved. (Snell,2/2/2018)(#277)(OP-2018-00019)

The Interlocal Cooperation Agreement between Clarke County and the Village of Pachuta for police protection and law enforcement services for Pachuta to be provided by the Clarke County Sheriff's Office is approved. (Snowden,2/14/2018)(#277)(OP-2018-00035)

The Interlocal Cooperation Agreement between Madison County and the City of Madison involving the funding of street and road improvements in the Highwoods of Madison subdivision is approved. (Snell,2/21/2018)(#277)(OP-2018-00042)

MUNICIPALITIES

Revenue bonds payable from the revenue generated by a municipally owned utility must be fully paid or funded prior to the transfer of any surplus funds to the general fund of the municipality. (Hunt,2/2/2018)(#142)(OP-2018-00007)

An alderman in the legislative branch may not also serve as an auxiliary policeman in the executive branch.

(Permenter,2/23/2018)(#142)(OP-2018-00036)

OPEN MEETINGS/OPEN RECORDS

Miss. Code Ann. Section 25-41-5 specifically authorizes a public body to conduct any meeting through video means and provides that a quorum may be at different locations for the purpose of conducting a meeting through video means provided participation is available to the general public. (Holleman,2/9/2018)(#272)(OP-2018-00024)

SCHOOLS-COUNTY BOARDS

There is no statewide uniform calendar for when elections for county school board members should occur. The dates of the terms for county school board members depends upon when the county school district adopted single member district lines in accordance with Section 37-5-7(2). (Keith,2/5/2018)(#179)(OP-2018-00005)

SCHOOLS-OTHER EMPLOYEES

The fact that a school district employee does not have law enforcement certification does not disqualify him from being a candidate for constable. Therefore, he may run for constable provided he meets all qualifications to hold that office.

If elected, he will be subject to the training provisions of Mississippi Code Annotated Sections 19-19-5 and 19-19-6 (Revised 2012). (Liddell,2/2/2018)(#212A)(OP-2018-00010)

SCHOOLS-PROPERTY

There is no authority for a school district to convey its statutorily required reversionary interest in real property.

To allow the proceeds of the sale of municipal real property to be divided between the municipality and a county school district would constitute an unlawful donation. (Rhea,2/16/2018)(#190)(OP-2018-00020)

SCHOOLS-SUPERINTENDENTS OF EDUCATION

State law provides public school districts with three specific options for providing health and life insurance to applicable employees: 1) the school districts may provide insurance through the State and School Employees Health and Life Insurance Plans in accordance with Mississippi Code Section 25-15-3, et seq., 2) the school districts may negotiate for and secure a group policy in accordance with Mississippi Code Section 25-15-101, or 3) the school districts may elect to self insure any portion of their group benefits in accordance with Mississippi Code Section 25-15-101.

An agency whose employees participate in PERS and deferred compensation administered by PERS cannot agree to pay an employee's portion of his retirement payment into PERS and is not authorized to pay employees under a separate deferred compensation program. A school board may only join organizations or associations in accordance with Section 37-7-301(r). To pay civic dues for an individual, as opposed to the school board or district, would be an unlawful donation to the individual. While a superintendent could use a vehicle owned by a school district for official school business, the district could not provide him with unrestricted and sole use of a school vehicle as part of his contract. A superintendent can only be granted leave in accordance with the school board's leave policies adopted prior to the execution of his or her contract. Any policy that a school board adopts that provides leave above the minimum statutory requirement must be reasonable and in accordance with applicable state and federal laws.
(Keith,2/2/2018)(#198)(OP-2017-00404)

To meet the experience requirement under Section 37-9-13(1)(b), the increase in the accountability rating must be maintained in three consecutive years at one school. A principal could gain the experience required by Section 37-9-13(1)(a) in non-consecutive years and at different schools. The exception in Section 37-9-13(4) is specifically limited to superintendents and assistant superintendents, who by definition work at the local school district level. There are no equivalent positions within the Mississippi Department of Education. If a school board hires an interim superintendent, he or she must meet the same statutory qualifications as a permanent, appointed superintendent, including those outlined in Section 37-9-13.
(McDonald,2/23/2018)(#198)(OP-2018-00003)

SUPERVISORS-AUTHORITY

This office is of the opinion that a board of supervisors may enact leave policies which recognize the differences in work schedules and duties of employees. A policy which provides that essential county employees are to be granted additional leave for working during any time in which non-essential county employees are granted leave with pay would be a valid exercise of power by a board of supervisors.
(Evans,2/16/2018)(#220)(OP-2018-00027)

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