



# 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 April 1, 2019 through April 30, 2019. 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](http://agjimhood.com)**

Very truly yours,

**Jim Hood**  
Attorney General

## COUNTIES-CLASSIFICATIONS

Section 83-1-39 of the Mississippi Code provides that the monies collected pursuant to the levy authorized therein are to be used for fire protection purposes which include contracting with fire protection districts for services. The statute does not limit the amount which may be collected pursuant to the levy, and it does not require the county to follow a particular formula in distributing those monies.  
(Younger,4/26/2019)(#049)(OP-2019-00099)

## COURTS

Section 9-23-7 of the Mississippi Code states that the Administrative Office of Courts (AOC) is "responsible for certification and monitoring of local drug courts according to standards promulgated by the State Drug Courts Advisory Committee." Further, Section 9-23-19 of the Mississippi Code states that all money received by the drug court shall be used "only for drug court purposes." Whether or not the purchase of gift cards as incentives would be for drug court purposes and meets the standards set by the AOC is a factual matter which is subject to review by a court of competent jurisdiction.  
(Holleman,4/19/2019)(#056)(OP-2019-00100)

## ELECTIONS-COMMISSIONERS

When a voter wishes to have his or her name removed from the voter rolls, the National Voter Registration Act only requires that the voter request such removal. There is no requirement that this request be in writing. When a voter provides written information that he or she has moved out of the county, the election commission may remove that individual's name from the voter rolls. When a voter provides information that he or she has moved within the county, the election commission may use that information to make the necessary change on the voter rolls to ensure that the voter is voting in the proper precinct. There is no requirement that the request be in the form of a signed written statement. Therefore, we are of the opinion that a verified e-mail is a legitimate method in which to provide first-hand information regarding the voting status of a voter.  
(Hartfield,4/26/2019)(#064)(OP-2019-00092)

## INTERLOCAL AGREEMENTS

The Amended Interlocal Cooperation Agreement between Grenada County, the City of Grenada and the Grenada E-911 District amending the original agreement adopted in 1998 by changing the allocation of funding sources between the parties is approved.

(Gore, III,4/2/2019)(#277)(OP-2019-00077)

The Interlocal Cooperation Agreement between Mississippi State University and Winston County regarding the management of county extension agents and staff is approved.

(Hathorn,4/22/2019)(#277)(OP-2019-00104)

The Interlocal Cooperation Agreement between the City of Pass Christian and Harrison County for the replacement of the Clark Avenue Bridge in the City of Pass Christian is approved.

(Holleman,4/22/2019)(#277)(OP-2019-00098)

The Interlocal Cooperation Agreement between Madison County, Mississippi, the City of Ridgeland, Mississippi and the City of Madison, Mississippi to provide residential household hazardous waste disposal is approved.

(Snell,4/24/2019)(#277)(OP-2019-00116)

The Interlocal Cooperation Agreement between the West Rankin Utility Authority and the City of Richland for purposes of providing for the use of the existing infrastructure and infrastructure extensions for transporting wastewater to the wastewater treatment plant and for the supply of drinking water is approved.

(Turner,4/24/2019)(#277)(OP-2019-00111)

## JUSTICE COURT JUDGES

Whether or not a dismissal for lack of prosecution is proper is a factual matter to be determined by the court. This office is prohibited from opining on a case once a lawsuit has been filed or prosecution has begun. We offer for guidance that the United States Supreme Court has found that the "authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an 'inherent power,' governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31, 82 S. Ct. 1386, 1389, 8 L. Ed. 2d 734 (1962).

(Kirk,4/5/2019)(#100)(OP-2019-00088)

## MUNICIPALITIES

Assuming that a municipality makes the requisite factual findings provided in Section 21-17-1(2)(a), it is only required to use one of the options available to it in Mississippi Code Annotated Section 21-17-1(2)(b) when disposing of its surplus real property. If a municipality had chosen the method outlined in Section 21-17-1(2)(b)(ii), any procurement of a contract with a real estate broker would have been limited to assisting with the "marketing and sale or lease of the property." Of course, a municipality may procure the services of a real estate broker under its general authority found in Sections 21-17-1 and 21-17-5 provided that such procurement is for valid consideration.

(Manley,4/5/2019)(#142)(OP-2019-00091)

A municipality may settle valid doubtful claims pursuant to Mississippi Code Annotated Section 25-1-47(2). Although the filing of a lawsuit is not required to trigger a municipality's authority to settle a claim, the claim must be bona-fide and just, and the municipality must make a factual finding that it is legally obligated for such claim and that the claim is not exempt from liability pursuant to Mississippi Code Annotated Section 11-46-9.

(Lawrence,4/26/2019)(#142)(OP-2019-00109)

## SCHOOLS-DISTRICTS

It is the opinion of this office that a person generally would have at least an indirect interest in the contracts executed by his or her spouse. Whether the specific employee mentioned in your request has an actual direct or indirect interest in a contract that is of the type listed in Section 37-11-27 is a factual determination to be made by the school board.

(Hill,4/5/2019)(#180)(OP-2019-00079)

## SCHOOLS-TRUSTEES

Section 37-7-203 does not provide any guidance on when during the year a determination should be made of the population of students residing in the added territory. We suggest that you make the determination of the percentage of students residing in the added territory annually in enough time to allow the county election officials to prepare for and conduct the election in accordance with the applicable election deadlines.

(Hemphill,4/5/2019)(#211)(OP-2019-00085)

Section 37-6-13(2)(a) does not authorize any additional exception, other than absence due to required military duty, to the mandatory reimbursement requirement for a school board member missing twenty percent (20%) or more of the meetings of the school board in a calendar year. Any regulation that waives the requirement of Section 37-6-13(2)(a) to repay a portion of salary would be inconsistent with law and impermissible. (Palmer,4/26/2019)(#211)(OP-2019-00107)

## SUPERVISORS-AUTHORITY

Pursuant to Section 19-3-40(3)(d), the Neshoba County Board of Supervisors may not grade or gravel a road and lot that is on school property leased to a private individual on which a business is being operated as the work requested is for the benefit of the private individual and not for the benefit of the public. (White,4/1/2019)(#220)(OP-2019-00089)

## TAXES-HOMESTEAD EXEMPTION

When changes have occurred in the description, ownership, use or occupancy since January 1 of the preceding year, the applicant for homestead exemption must file a new application for homestead exemption as required by Section 27-33-31(1) on or before April 1 of the succeeding year. Where such applications are not filed, except as may be expressly provided by statute, a board of supervisors does not have authority to amend homestead exemption rolls. (Ross, Jr.,4/19/2019)(#246)(OP-2019-00101)

## YOUTH COURT

Whether a child is being educated in a legitimate home instruction program is a question of fact to be determined by a court of competent jurisdiction. The State Board of Education, local school districts, other state agencies or public entities do not have any regulatory authority or oversight over home school programs beyond the collection of certificates of enrollment by the Mississippi Department of Education. (Barton,4/26/2019)(#101)(OP-2019-00106)

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