

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 16, 2019

Derek D. Hopson, Sr., Esquire
Municipal Court Judge for the City of Clarksdale
Post Office Box 266
Clarksdale, Mississippi 38614

Re: Employment of Municipal Court Judge as a Municipal School Board Attorney

Dear Mr. Hopson:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and response. In your letter, you inquire as to whether a municipal court judge may simultaneously serve as the municipal school board attorney.

With regard to dual employment matters, our office opines on constitutional separation of powers issues and the requirement that a public employee not be paid by two entities for the same time worked. The Mississippi Supreme Court has held that an officer of one branch of government is prohibited from performing "a function at the core of the power properly belonging to either of the two other departments." See *Dye v. State*, 507 So. 2d 332 (Miss. 1987). A municipal court judge exercises core powers of the judicial branch and, therefore, cannot accept a position in either the legislative or executive branches in which he or she would exercise core powers of either of those two branches. MS AG Op., Ready (August 8, 2005). With regard to a municipal school board attorney, we have previously opined that this position is within the executive branch of government. MS AG Op., Lowrey (August 23, 1995). However, a municipal school board attorney does not exercise power at the core of the executive branch of government and, therefore, there is no violation of the separation of powers doctrine when one person serves simultaneously as municipal school board attorney and municipal court judge.

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We caution that your duties as municipal court judge must be performed during those hours you are not being paid as a municipal school board attorney and vice versa. MS AG Op., Gilmore (January 31, 2014); MS AG Op., Shepard (April 1, 2013); MS AG Op., Lee (January 30, 2009); MS AG Op., Roberts (January 16, 2009).

Any questions regarding potential conflicts of interest must be addressed by the Mississippi State Ethics Commission.

If this office may be of any further assistance to you, please let us know.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:


Avery Mounger Lee
Special Assistant Attorney General

OFFICIAL OPINION