



RULES OF THE MISSISSIPPI ETHICS COMMISSION

Title 21: Law and Justice

Part 201; Chapter 1: Commission Meetings

Rule 1.1; Timing and Notice. Meetings of the Mississippi Ethics Commission shall begin at 10:00 a.m. on the first Friday of each month and shall be held at the commission's office in the City of Jackson unless the commission, either at a regular meeting or by specially calling a meeting, sets another time, date or place. Notice of all Commission meetings shall be posted on the home page of the Commission's web site as soon as practicable.

The chairman may cancel a meeting already scheduled or specially call a meeting. Notice of cancellation or of a specially called meeting shall be provided as soon as possible to all Commission members by whatever means of communication is available and practicable and most likely to reach each member under the circumstances. Notice is hereby provided that any Commission member may participate in any Commission meeting by teleconference or video means, in which event public access will be provided at the physical location of the meeting.

The commission may pretermite any meeting. At all meetings the chairman, or in his or her absence the vice-chairman, shall preside and maintain decorum, ensuring the deliberate but expedient discharge of all business before the commission. In all meetings the commission will comply with and follow the requirements of the Open Meetings Act, codified in Title 25, Chapter 41, Miss. Code of 1972.

Source: Section 25-4-7 through 11, Miss. Code of 1972.

Rule 1.2; Confidential Session. The commission shall hold confidential sessions on all matters designated as confidential by the Ethics in Government Law, codified in Title 25, Chapter 4, Miss. Code of 1972. Only commission members, commission staff members, attorneys for the commission, witnesses or other persons whose presence the commission deems necessary may attend confidential sessions. All other persons shall be excluded from the meeting area during confidential sessions. The commission and its staff shall keep separate minutes of confidential sessions which shall not be subject to disclosure.

Source: Section 25-4-23, Miss. Code of 1972.

Part 201; Chapter 2: Public Records Requests

Rule 2.1; Statement of Public Policy. "It is the policy of the Legislature that public records must be available for inspection by any person unless otherwise provided by this act. Furthermore,

providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records.” Section 25-61-1, Miss. Code of 1972.

“[A]ll public records are hereby declared to be public property, and any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of a public body in accordance with reasonable written procedures adopted by the public body concerning the cost, time, place and method of access, and public notice of the procedures shall be given by the public body.” Section 25-61-5, Miss. Code of 1972.

The act defines "public record" to include any "all books, records, papers, accounts, letters, maps, photographs, films, cards, tapes, recordings or reproductions thereof, and any other documentary materials, regardless of physical form or characteristics, having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body, or required to be maintained by any public body.” Section 25-61-3(b).

The purpose of these rules is to establish the procedures the Mississippi Ethics Commission will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Mississippi Ethics Commission and establish processes for both requestors and the Mississippi Ethics Commission staff that are designed to best assist members of the public in obtaining such access.

The purpose of the act is to provide the public full access to public records concerning the conduct of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the Mississippi Ethics Commission will be guided by the provisions of the act describing its purposes and interpretation.

Source: Sections 25-61-1, 25-61-5 and 25-61-3(b), Miss. Code of 1972.

Rule 2.2; Public body description - Contact information - Public records officer. The Mississippi Ethics Commission interprets and enforces the Ethics in Government Law (Sections 25-4-1 through 25-4-119, Miss. Code of 1972.), the Open Meetings Act (Sections 25-41-1 through 25-41-17, Miss. Code of 1972.) and the Public Records Act (Sections 25-61-1 through 25-61-17, Miss. Code of 1972.). The Mississippi Ethics Commission’s office is located at 660 North Street, Suite 100-C, Jackson, MS 39202. The Mississippi Ethics Commission’s mailing address is P. O. Box 22746, Jackson, MS 39225-2746. The telephone number is 601-359-1285, and the telecopier number is 601-359-1292. The email address and web address are info@ethics.state.ms.us and www.ethics.state.ms.us.

Any person wishing to request access to public records of the Mississippi Ethics Commission or seeking assistance in making such a request should contact the public records officer of the Mississippi Ethics Commission by addressing the request to the “Public Records Officer, Executive Director or Assistant Director.”

The subject line or cover sheet of a written request should include the phrase “Request for Public Records.” Information is also available at the Ethics Commission’s web site listed above.

The public records officer will oversee compliance with the act but another Ethics Commission staff member may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and the Ethics Commission will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Ethics Commission.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.3; Availability of public records. Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the Ethics Commission, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the offices of the Ethics Commission. The time, place and manner of inspection and copying of records will not be allowed to interfere with other essential duties of the Ethics Commission.

- A. Records index. Indexes of public records are available for use by members of the public, including indexes of Advisory Opinions, Statements of Economic Interest, Public Records Opinions and Open Meetings decisions, all of which may be accessed on-line at the web site address listed above.
- B. Organization of records. The Ethics Commission will maintain its records in a reasonably organized manner. The Ethics Commission will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Ethics Commission records from Ethics Commission offices. A variety of records is available on the Ethics Commission web site. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.
- C. Making a request for public records. Any person wishing to inspect or copy public records of the Ethics Commission should make the request in writing on a request form (if one is provided), or by letter, fax, or e-mail addressed to the public records officer and including the following information: Name of requestor; Address of requestor; Other contact information, including telephone number and any e-mail address; Identification of the public records adequate for the public records officer or designee to locate the records; and the date and time of day of the request.

If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to these rules, standard photocopies will be provided at fifteen cents (\$0.15) per page.

The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.4; Processing of public records requests – General.

- A. Providing access. The Ethics Commission acknowledges that “providing access to public records is a duty” and that “any person shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of any public record” in accordance with these policies. Sections 25-61-1 and 25-61-5. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.
- B. Acknowledging receipt of request. Within five business days of receipt of the request, the public records officer will do one or more of the following: (1) Make the records available for inspection or copying; (2) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor; (3) Provide a reasonable estimate of when records will be available; or (4) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. (Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available); or (5) Deny the request.
- C. Consequences of failure to respond. If the Ethics Commission does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.
- D. Protecting rights of others. In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.
- E. Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the Ethics Commission believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.5; Inspection of records. Consistent with other demands, the Ethics Commission shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents he or she wishes the public body to copy.

The requestor must claim or review the assembled records within thirty days of the Ethics Commission's notification to him or her that the records are available for inspection or copying. The Ethics Commission will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the public body to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Ethics Commission may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

- A. Providing copies of records. After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.
- B. Providing records in installments. When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.
- C. Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the Ethics Commission has completed a diligent search for the requested records and made any located nonexempt records available for inspection.
- D. Closing withdrawn or abandoned request. When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the Ethics Commission has closed the request.
- E. Later discovered documents. If, after the Ethics Commission has informed the requestor that it has provided all available records, the Ethics Commission becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.6; Processing of public records requests – Electronic records.

Providing electronic records. When a requestor requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the public body and is generally commercially available, or in a format that is reasonably translatable from the format in which the public body keeps the record. Costs for providing electronic records are governed elsewhere in these rules.

Customized access to data bases. With the consent of the requestor, the Ethics Commission may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The Ethics Commission may charge the actual cost for such customized access.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.7; Exemptions. The Public Records Act, as well as other statutes and court decisions, provide that a number of types of documents are exempt from public inspection and copying. In addition, other statutes or rules of law, such as various privacy restrictions, may prohibit disclosure. Requestors should be aware of the following exemptions outside the Public Records Act, that restrict the availability of some documents held by Ethics Commission for inspection and copying:

- A. Confidentiality of Ethics Opinions, Complaints and Investigative Materials; Sections 25-4-17(i) and (j) and 25-4-23, Miss. Code of 1972.
- B. Attorney work product and attorney client privilege; Section 25-1-102.
- C. Individual tax records in possession of public body; Section 27-3-77.
- D. Personnel files; Section 25-1-100.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.8; Third Party Information. When any person files or submits documents with the Ethics Commission which the filer contends are exempt from disclosure under the Public Records Act, the filer shall provide a written statement at the time of filing which shall describe the documents filed and which shall fully explain why the documents are designated as exempt from disclosure and must specifically cite any statute or other legal authority in support of such designation. Such written statement shall itself be a public record subject to disclosure.

Any document filed with the Ethics Commission which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such by the filer on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request to inspect or copy any document so designated, the Ethics Commission shall notify the person who filed the document of the request. Thirty (30) days after such notice, the document will be made available for public inspection or copying unless the filer shall have obtained a court order protecting such records as confidential pursuant to Section 25-61-9, Miss. Code of 1972.

Any person filing documents with the Ethics Commission shall, prior to filing, redact from the documents any social security numbers, account numbers or dates of birth not required to be listed. The Ethics Commission shall determine on a case-by-case basis whether similar information may be redacted by the filer to prevent identity theft. In no event will the Ethics Commission bear any responsibility for a filer's failure to redact such information which leads to or may lead to identity theft or other crime or loss.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.9; Costs of providing public records. The Ethics Commission may require payment in advance for all costs before providing copies or access to records.

- A. Costs for paper copies. A requestor may obtain standard black and white photocopies for fifteen cents (15¢) per page. Before beginning to make the copies, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs of a previous installment before providing a subsequent installment. The Ethics Commission will not charge sales tax when it makes copies of public records.
- B. Costs for electronic records. The cost of electronic copies of records shall be one dollar (\$1) per disk for information on a CD-ROM. The cost of scanning existing Ethics Commission paper or other non-electronic records is five cents (5¢) per page. There will be no charge for e-mailing electronic records to a requestor, unless another cost applies such as a scanning fee or system costs allowed under Section 25-61-7(2), Miss. Code of 1972.
- C. Costs of mailing. The Ethics Commission may also charge actual costs of mailing, including the cost of the shipping container.
- D. Payment. Payment may be made by check or money order payable to the Ethics Commission. Cash will not be accepted.
- E. Charges for searching, reviewing and redacting. The actual cost of searching for and reviewing and, if necessary, redacting exempt information from public records shall be based upon the hourly rate of compensation for the lowest paid agency employee qualified to perform the task, which shall be multiplied by the actual time to complete the task.

Source: Section 25-61-5, Miss. Code of 1972.

Rule 2.10; Review of denials of public records. Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including e-mail) to the public records officer for a review of that decision. The petition must include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

- A. Consideration of petition for review. The executive director or assistant director of the Ethics Commission will promptly consider the petition and either affirm or reverse the denial within two business days following the Ethics Commission's receipt of the petition, or within such other time as the executive director or assistant director and the requestor mutually agree.
- B. Review by the Ethics Commission. Pursuant to Section 25-61-13, if the public records officer or other staff of the Ethics Commission denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter by filing a written request for review.

- C. Judicial review. Any person whose request for public records was denied by the Ethics Commission may institute a suit in the chancery court for the First Judicial District of Hinds County, seeking to reverse the denial, as set forth in Section 25-61-13.

Source: Section 25-61-5, Miss. Code of 1972.

Part 201; Chapter 3: Lobbying Appeals

Rule 3.1; Purpose. The purpose of this chapter is to set forth guidelines by which the Ethics Commission hearings on appeals by a Lobbyist or a Lobbyist's Client of civil penalties assessed by the Secretary of State's Office will be conducted and for preparing a record of said hearings. The following procedures will be followed by the Ethics Commission members and staff in conducting appeals by a Lobbyist or a Lobbyist's Client of civil penalties assessed by the Secretary of State's Office and for preparing a record of said hearings.

Source: Section 5-8-17, Miss. Code of 1972.

Rule 3.2; Pre-hearing phase. The executive director of the Ethics Commission shall schedule a hearing upon receipt of a sworn application of a lobbyist or lobbyist's client from the Secretary of State's Office. The executive director shall fix a time and place for a hearing and shall serve upon the parties written notice specifying the civil penalties that have been assessed against the lobbyist or lobbyist's client and notice of the time and place of the hearing at least twenty (20) calendar days prior to the hearing date. The hearing shall be set for a date which is at least fourteen (14) days prior to the anticipated date of a regular monthly meeting of the Ethics Commission. The notice may be served by mailing a copy thereof by certified mail, postage prepaid, to the last known business address of the lobbyist or lobbyist's client.

The Ethics Commission shall through its executive director, or his or her designee, issue subpoenas for attendance of witnesses and the production of books and papers at such hearing. The lobbyist or lobbyist's client shall receive notice, included with the written notice of the hearing date, to provide a list of witnesses and/or books and papers to be presented during the hearing and if the Ethics Commission is being requested to issue subpoenas for same. The lobbyist or lobbyist's client shall bear the cost of all witnesses and books and papers required by the lobbyist or lobbyist's client.

The Secretary of State, or his designee, shall be notified to present that office's position on the assessment of the civil penalties, to provide a list of witnesses and/or the production of books and papers supporting that office's position and if the Ethics Commission is being requested to issue subpoenas for same. The Secretary of State's Office shall bear the cost of all witnesses and books and papers required by that office.

The Ethics Commission's subpoenas shall be enforced by any court of competent jurisdiction of this state in the manner provided for the enforcement of attendance and testimony of witnesses in civil cases in the courts of this state. The Commission hereby appoints the executive director or his designee chosen from a list preapproved by the Commission as hearing officer to conduct the hearing and administer oaths as may be necessary for the proper conduct of the hearing. The hearing officer shall rule on all procedural matters during the hearing and shall be responsible for

order and decorum. The Ethics Commission shall determine what portion of the cost for a hearing officer the Secretary of State's Office or the lobbyist or lobbyist's client shall bear.

The executive director of the Ethics Commission, or his or her designee, shall organize a pre-hearing conference to be attended by the hearing officer; the lobbyist or lobbyist's client, and/or their attorneys; and the Secretary of State, or his designee.

Source: Section 5-8-17, Miss. Code of 1972.

Rule 3.3; Hearing phase. The hearing officer shall preside over the hearing; administer oaths; rule on procedural matters; and, maintain order and decorum. Ethics Commission members may attend the hearing to listen to all testimony and other evidence presented.

The Ethics Commission shall determine what portion of the cost of a court reporter and, if necessary, one (1) transcript for the use by the Ethics Commission the Secretary of State's Office or the lobbyist or lobbyist's client shall bear.

The Ethics Commission shall not be bound by strict rules of procedure or by the rules of evidence in the conduct of the proceedings. The hearing shall be open to the public.

Source: Section 5-8-17, Miss. Code of 1972.

Rule 3.4; Post-hearing phase. After conclusion of the hearing, the commission or hearing officer shall reduce its decision to writing and forward a certified copy thereof to the last known address of the parties by way of United States first-class, certified mail, postage paid.

The cost of the preparation of the record of the proceedings for purpose of an appeal from a decision of the Ethics Commission shall be assessed to and prepaid by the party filing the notice of appeal in accordance with the Uniform Rules of Circuit and County Court. Such cost shall be paid upon filing the notice of appeal pursuant to Rules 5.04 and 5.09 of the Uniform Rules of Circuit and County Court.

Source: Section 5-8-17, Miss. Code of 1972.

Part 201; Chapter 4: Open Meetings Disputes

Rule 4.1; Prehearing Phase. Upon receiving a complaint, the executive director shall forward a copy of the complaint, via certified mail, postage prepaid to the head of the public body against which the complaint has been made. The public body shall have fourteen (14) days from receipt of the complaint to file a response with the Commission. After receiving the response to the complaint or, if no response is received after fourteen (14) days, the Commission, in its discretion, may dismiss the complaint or proceed by setting a hearing in accordance with these rules and regulations.

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.2; Appointment and Authority of Hearing Officer. The Commission hereby appoints the Executive Director or his designee chosen from a list preapproved by the Commission as hearing

officer for all open meetings disputes within the Commission's jurisdiction pursuant to Title 25, Chapter 41 of the Mississippi Code of 1972.

The hearing officer has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under these regulations. The hearing officer may require production, through order or subpoena, of evidence upon all matters embraced in the open meetings dispute, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The hearing officer shall have the power to administer oaths, examine witnesses in open meetings cases pending before the Commission, examine and report upon all matters referred to him. The hearing officer shall have the power to enter protective orders.

The hearing officer shall have the power to direct the issuance of subpoenas for witnesses to attend before him or her to testify in the cause. If any witness shall fail to appear, the hearing officer shall proceed by process to compel the witness to attend and give evidence. The hearing officer may direct the parties to participate in a conference or conferences prior to the hearing on the merits, for such purposes as expediting the disposition of the action and facilitating resolution of the case.

The hearing officer may issue rulings on scheduling matters, protective orders, admissibility of evidence, and other procedural or pre-hearing matters. The hearing officer may alter any of the time periods provided by these regulations, upon his own initiative or upon a motion by a party or other person affected for good cause shown.

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.3; Appearance through Counsel. Parties to proceedings governed by this rule may appear personally or through an attorney, except that a party must personally attend any hearing on the merits unless his attendance has been waived, in writing, by the hearing officer. When a party has appeared through an attorney, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing. When a party is represented by an attorney, the attorney shall sign all motions, oppositions, notices, requests, and other papers on behalf of the party, including any request for issuance of subpoena

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.4; Pre-Hearing Conference/Scheduling. The hearing officer may enter a scheduling order, or any such other order, that sets deadlines, conferences or hearings deemed necessary or appropriate by the hearing officer. Oral argument will not normally be granted. However, the hearing officer may grant oral argument on any motion in his sole discretion.

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.5; Subpoenas requested by parties. The hearing officer shall have the power to issue subpoenas for testimony or documents. Subpoenas may be issued to parties upon request, but only for the following purposes:

- (A) To compel a non-party witness to appear and give oral testimony at any hearing scheduled under these regulations; or
- (B) To compel any person to appear at the hearing on the merits of the case, to give testimony, or to produce documents or other tangible things.

Subpoenas requested by a party shall be submitted to the hearing officer on a form approved by the Commission. Concurrently with the submission of the subpoena to the hearing officer, the requesting party shall serve a copy on all of the parties to the proceeding and shall file proof of such service with the Commission and the hearing officer.

Subpoenas shall not be issued in blank. A subpoena submitted for issuance must contain the title and number of the case, the name of the person to whom it will be directed, the date, time and place of hearing, and the name and signature of the requesting party or his attorney. A subpoena duces tecum must, in addition, contain a complete description of specific documents or other tangible things that the witness will be required to produce at the hearing.

Unless the witness agrees otherwise, a subpoena issued for the purposes provided in these rules must be served by the requesting party at least ten (10) calendar days prior to the hearing. A subpoena will be issued during the hearing or on less than ten (10) days' notice only upon order of the hearing officer for reasonable cause shown by the requesting party.

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.6; Preliminary Report and Recommendation by Hearing Officer. Prior to a hearing on the merits, the hearing officer may prepare and file with the Commission a Preliminary Report and Recommendation, including, if appropriate, proposed findings of fact and conclusions of law, based upon the record available to the hearing officer. In the alternative, the hearing officer may file a Recommendation of Dismissal with the Commission. The hearing officer shall present the Preliminary Report and Recommendation or Recommendation of Dismissal to the Commission, at which time the Commission can either accept the recommendation or reject it and set the matter for hearing. If the hearing officer serves a Preliminary Report and Recommendation on the parties, the hearing officer shall also provide the parties with written notice of a proposed hearing date in the event either party objects to the preliminary report and recommendation as provided below.

Within five (5) business days of receiving a copy of the preliminary report and recommendation, any party may file specific written objections to the preliminary report and recommendation. Failure by the respondent to file such objection waives the respondent's right to a hearing on the merits. Upon receiving such objection, the hearing officer shall set the hearing on the merits for the date proposed in the notice of proposed hearing date previously mailed to the parties or some other date agreed to by the parties. After the hearing on the merits, the hearing officer shall prepare a final report and recommendation. However, nothing contained in these rules shall require the hearing officer to set a hearing on the merits for a complaint in which the hearing officer recommends dismissal or in which there are no facts in dispute.

If no objection to the preliminary report and recommendation is received within the time provided above, the hearing officer may issue a final order or, in the hearing officer's discretion,

set the matter for a hearing on the merits for the date proposed in the notice of proposed hearing date or some other date agreed to by the parties. If the hearing officer sets the matter for a hearing on the merits, the hearing officer shall prepare a final report and recommendation after such hearing.

The hearing officer shall submit the final report and recommendation to the Commission and present it to the Commission at its next regularly scheduled meeting. The Commission can enter a final order dismissing the case, modifying the report and recommendation, or adopting the report and recommendation, or the Commission can enter an order remanding the case for further hearing.

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.7; Conduct of Hearings. Hearings shall be informal, and the Miss. Rules of Evidence while applicable, shall be relaxed. Nothing contained herein shall prohibit the hearing officer from entering orders or making rulings which provide for the orderly conduct of said hearings. The hearing officer may limit the issues to be heard during any hearing. The hearing officer may also make rulings concerning any matters which do not involve a disputed issue of fact without setting a hearing concerning same. Continuances will not be granted except for good cause shown.

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.8; Recommendation of the Hearing Officer and Decision of the Commission. All findings of fact made by the hearing officer or the Commission shall be based upon the preponderance of the evidence. The hearing officer shall reduce all recommendations to writing and submit those recommendations to the Commission as described herein.

Source: Section 25-41-15, Miss. Code of 1972.

Rule 4.9; Post-Hearing Phase. The cost of the preparation of the record of the proceedings for purpose of an appeal from the decision of the Ethics Commission shall be assessed to the party filing the appeal.

Source: Section 25-41-15, Miss. Code of 1972.

Part 201; Chapter 5: Public Records Disputes

Rule 5.1; Prehearing Phase. Upon receiving a complaint, the executive director shall forward a copy of the complaint, via certified mail, postage prepaid to the head of the public body against which the complaint has been made. The public body shall have fourteen (14) days from receipt of the complaint to file a response with the Commission. After receiving the response to the complaint or, if no response is received after fourteen (14) days, the Commission, in its discretion, may dismiss the complaint or proceed by setting a hearing in accordance with these rules and regulations.

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.2; Appointment and Authority of Hearing Officer. The Commission hereby appoints the Executive Director or his designee chosen from a list preapproved by the Commission as hearing officer for all public records disputes within the Commission's jurisdiction pursuant to Title 25, Chapter 61 of the Mississippi Code of 1972.

The hearing officer has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under these rules. The hearing officer may require production, through order or subpoena, of evidence upon all matters embraced in the dispute, including the production of all books, papers, vouchers, documents, and writings applicable thereto. The hearing officer shall have the power to administer oaths, examine witnesses in cases pending before the Commission, examine and report upon all matters referred to him. The hearing officer shall have the power to enter protective orders regarding records subpoenaed for private review in accordance with Section 25-61-13, Miss. Code of 1972.

The hearing officer shall have the power to direct the issuance of subpoenas for witnesses to attend before him or her to testify in the cause. If any witness shall fail to appear, the hearing officer shall proceed by process to compel the witness to attend and give evidence. The hearing officer may direct the parties to participate in a conference or conferences prior to the hearing on the merits, for such purposes as expediting the disposition of the action and facilitating resolution of the case.

The hearing officer may issue rulings on scheduling matters, protective orders, admissibility of evidence, and other procedural or pre-hearing matters. The hearing officer may alter any of the time periods provided by these regulations, upon his own initiative or upon a motion by a party or other person affected for good cause shown.

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.3; Appearance through Counsel. Parties to proceedings governed by this rule may appear personally or through an attorney, except that a party must personally attend any hearing on the merits unless his attendance has been waived, in writing, by the hearing officer. When a party has appeared through an attorney, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing. When a party is represented by an attorney, the attorney shall sign all motions, oppositions, notices, requests, and other papers on behalf of the party, including any request for issuance of subpoena

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.4; Pre-Hearing Conference/Scheduling. The hearing officer may enter a scheduling order, or any such other order, that sets deadlines, conferences or hearings deemed necessary or appropriate by the hearing officer. Oral argument will not normally be granted. However, the hearing officer may grant oral argument on any motion in his sole discretion.

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.5; Subpoenas requested by parties. The hearing officer shall have the power to issue subpoenas for testimony or documents. Subpoenas may be issued to parties upon request, but only for the following purposes:

- (A) To compel a non-party witness to appear and give oral testimony at any hearing scheduled under these regulations; or
- (B) To compel any person to appear at the hearing on the merits of the case, to give testimony, or to produce documents or other tangible things.

Subpoenas requested by a party shall be submitted to the hearing officer on a form approved by the Commission. Concurrently with the submission of the subpoena to the hearing officer, the requesting party shall serve a copy on all of the parties to the proceeding and shall file proof of such service with the Commission and the hearing officer.

Subpoenas shall not be issued in blank. A subpoena submitted for issuance must contain the title and number of the case, the name of the person to whom it will be directed, the date, time and place of hearing, and the name and signature of the requesting party or his attorney. A subpoena duces tecum must, in addition, contain a complete description of specific documents or other tangible things that the witness will be required to produce at the hearing.

Unless the witness agrees otherwise, a subpoena issued for the purposes provided in these rules must be served by the requesting party at least ten (10) calendar days prior to the hearing. A subpoena will be issued during the hearing or on less than ten (10) days' notice only upon order of the hearing officer for reasonable cause shown by the requesting party.

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.6; Preliminary Report and Recommendation by Hearing Officer. Prior to a hearing on the merits, the hearing officer may prepare and file with the Commission a Preliminary Report and Recommendation, including, if appropriate, proposed findings of fact and conclusions of law, based upon the record available to the hearing officer. In the alternative, the hearing officer may file a Recommendation of Dismissal with the Commission. The hearing officer shall present the Preliminary Report and Recommendation or Recommendation of Dismissal to the Commission, at which time the Commission can either accept the recommendation or reject it and set the matter for hearing. If the hearing officer serves a Preliminary Report and Recommendation on the parties, the hearing officer shall also provide the parties with written notice of a proposed hearing date in the event either party objects to the preliminary report and recommendation as provided below.

Within five (5) business days of receiving a copy of the preliminary report and recommendation, any party may file specific written objections to the preliminary report and recommendation. Failure by the respondent to file such objection waives the respondent's right to a hearing on the merits. Upon receiving such objection, the hearing officer shall set the hearing on the merits for the date proposed in the notice of proposed hearing date previously mailed to the parties or some other date agreed to by the parties. After the hearing on the merits, the hearing officer shall prepare a final report and recommendation. However, nothing contained in these rules shall

require the hearing officer to set a hearing on the merits for a complaint in which the hearing officer recommends dismissal or in which there are no facts in dispute.

If no objection to the preliminary report and recommendation is received within the time provided above, the hearing officer may issue a final order or, in the hearing officer's discretion, set the matter for a hearing on the merits for the date proposed in the notice of proposed hearing date or some other date agreed to by the parties. If the hearing officer sets the matter for a hearing on the merits, the hearing officer shall prepare a final report and recommendation after such hearing.

The hearing officer shall submit the final report and recommendation to the Commission and present it to the Commission at its next regularly scheduled meeting. The Commission can enter a final order dismissing the case, modifying the report and recommendation, or adopting the report and recommendation, or the Commission can enter an order remanding the case for further hearing.

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.7; Conduct of Hearings. Hearings shall be informal, and the Miss. Rules of Evidence while applicable, shall be relaxed. Nothing contained herein shall prohibit the hearing officer from entering orders or making rulings which provide for the orderly conduct of said hearings. The hearing officer may limit the issues to be heard during any hearing. The hearing officer may also make rulings concerning any matters which do not involve a disputed issue of fact without setting a hearing concerning same. Continuances will not be granted except for good cause shown.

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.8; Recommendation of the Hearing Officer and Decision of the Commission. All findings of fact made by the hearing officer or the Commission shall be based upon the preponderance of the evidence. The hearing officer shall reduce all recommendations to writing and submit those recommendations to the Commission as described herein.

Source: Section 25-61-13, Miss. Code of 1972.

Rule 5.9; Post-Hearing Phase. The cost of the preparation of the record of the proceedings for purpose of an appeal from the decision of the Ethics Commission shall be assessed to the party filing the appeal.

Source: Section 25-61-13, Miss. Code of 1972.

Part 201; Chapter 6: Ethics Hearings

Rule 6.1; Prehearing Phase. Upon a finding that probable cause exists to believe a violation of law has occurred, the commission shall set a hearing on the matter and shall cause a written notice of the time and place of the hearing to be served upon the respondent at least sixty (60) calendar days prior to the hearing date. A finding of probable cause shall constitute removal of the statutory confidentiality imposed by Sections 25-4-21 and 25-4-23, as authorized in Section

25-4-17(g), Miss. Code of 1972. The executive director shall cause a copy of the written notice to be served on the respondent by personal service or by mailing a copy thereof by certified mail, postage prepaid, to the last known business address of the respondent or his or her attorney.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.2; Appointment and Authority of Hearing Officer. The commission may appoint a hearing officer to rule on procedural matters, issue subpoenas, conduct any hearing, administer oaths as may be necessary for the proper conduct of the hearing, or such other matters as ordered by the Commission. The hearing officer may direct the parties to participate in a conference or conferences before the hearing on the merits, for such purposes as expediting the disposition of the action and facilitating resolution of the case. The hearing officer may issue rulings on discovery issues, scheduling matters, protective orders, admissibility of evidence, and other procedural or pre-hearing matters.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.3; Ex Parte Communications. Neither a respondent nor his or her representative shall communicate with the hearing officer directly or indirectly in connection with any issue of fact or law related to a proceeding pending before the Commission, except upon notice and opportunity to all parties to participate. The hearing officer may, with the consent of the parties, confer separately with the parties and/or their lawyers in an effort to mediate or settle a pending matter.

This rule shall not preclude:

- (A) The hearing officer from consulting with Commission counsel concerning any matter before the Commission; or
- (B) A party or his representative from conferring with the hearing officer or Commission counsel concerning procedural matters that do not involve issues of fact or law related to the proceeding.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.4; Appearance through Counsel. Parties may appear personally or through an attorney, except that a party must personally attend any hearing on the merits unless his attendance has been waived, in writing, by the hearing officer. When a party has appeared through an attorney, service of all notices, motions, orders, decisions and other papers shall thereafter be made upon the attorney, unless the party requests otherwise in writing. When a party is represented by an attorney, the attorney shall sign all motions, oppositions, notices, requests, and other papers on behalf of the party, including any request for issuance of subpoenas.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.5; Pre-Hearing Conference/Scheduling. The hearing officer may enter a scheduling order that sets deadlines, conferences or hearings, deemed necessary or appropriate. The hearing

officer may rule on any motion without consulting the parties and without granting oral argument.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.6; Discovery. Subject to the exceptions set forth below, if either party requests discovery, the party opposite must disclose and permit the requesting party to inspect, copy, test, and photograph upon written request and without the necessity of an order by the hearing officer the following which is in the possession, custody, or control of the party opposite, the existence of which is known or by the exercise of due diligence may become known to the party opposite:

- A. Names and addresses of all witnesses in chief proposed to be offered by the party at trial, together with a copy of the contents of any statement, written, recorded or otherwise preserved of each such witness and the substance of any oral statement made by any such witness;
- B. Copy of any written or recorded statement of the respondent and the substance of any oral statement made by the respondent;
- C. Copy of the criminal record of the respondent, if proposed to be used to impeach;
- D. Any reports, statements, or opinions of experts, written, recorded or otherwise preserved, made in connection with the particular case and the substance of any oral statement made by any such expert;
- E. Any physical evidence and photographs relevant to the case or which may be offered in evidence; and
- F. Any exculpatory material concerning the respondent.

The hearing officer may limit or deny disclosure authorized herein if he or she finds that there is a substantial risk to any person of physical harm, intimidation, economic reprisals, or unnecessary annoyance or embarrassment, resulting from such disclosure, which outweighs any usefulness of the disclosure to the requesting party. Disclosure shall not be required of legal research or of records, correspondence, reports, or memoranda which contain the opinions, theories, or conclusions of either party's attorneys or members of legal staff.

Both the commission and the respondent have a duty to timely supplement discovery. If, subsequent to compliance with these rules or orders pursuant thereto, a party discovers additional material or information which is subject to disclosure, that party shall promptly notify the other party or the other party's attorney of the existence of such additional material, and if the additional material or information is discovered during a hearing, the hearing officer shall also be notified.

The attorney receiving materials on discovery is responsible for those materials and shall not distribute them to third parties. Upon a showing of cause, the hearing officer may at any time order that specified disclosures be restricted or deferred, or make such other order as is

appropriate, provided that all material and information to which a party is entitled must be disclosed in time to permit the party's attorney to make beneficial use thereof.

When some parts of certain material are discoverable under these rules, and other parts are not discoverable, as much of the material should be disclosed as is consistent with the rules. Material excised or redacted pursuant to judicial order or order of the hearing officer shall be sealed and preserved in the records of the hearing officer, to be made available to the circuit court in the event of an appeal.

In the event there are matters arguably within the scope of a party's discovery request or an order for discovery, and the opposing party is of the opinion that the requesting party is not entitled to discovery of same, the opposing party shall, as soon as is reasonably practicable, file with the hearing officer a written statement describing the nature of the information or the materials at issue as fully as is reasonably possible without disclosure of same and stating the grounds for objection to disclosure. Subject to the limitations otherwise provided in these rules, determinations such as whether the matters requested in discovery are relevant to the case, exculpatory, possible instruments of impeachment, and the like, may be made only by the party requesting or to receive the discovery.

Upon request of any person, the hearing officer may permit any showing of cause for denial or regulation of disclosures, or portion of such showing, to be made in camera. A record shall be made of such proceedings. If the hearing officer enters an order granting relief following a hearing in camera, the entire record of such hearing shall be sealed and preserved in the records of the hearing officer, to be made available to the circuit court in the event of an appeal.

If at any time prior to a hearing on the merits it is brought to the attention of the hearing officer that a party has failed to comply with an applicable discovery rule or an order issued pursuant thereto, the hearing officer may order such party to permit the discovery of material and information not previously disclosed, grant a continuance, or enter such other order as he or she deems just under the circumstances.

If during the course of a hearing on the merits, either party attempts to introduce evidence which has not been timely disclosed to the opposing party as required by these rules, and the opposing party objects to the introduction for that reason, the hearing officer shall act as follows:

- A. Grant the opposing party a reasonable opportunity to interview the newly discovered witness, to examine the newly produced documents, photographs or other evidence; and
- B. If, after such opportunity, the opposing party claims unfair surprise or undue prejudice and seeks a continuance or mistrial, the hearing officer shall, in the interest of justice and absent unusual circumstances, exclude the evidence or grant a continuance for a period of time reasonably necessary for the opposing party to meet the non-disclosed evidence.

The hearing officer shall not be required to grant a continuance for such a discovery violation if the party attempting to introduce such evidence withdraws its efforts to introduce the evidence.

Willful violation by an attorney or party of an applicable discovery rule or an order issued pursuant thereto may subject the attorney or party to appropriate sanctions by the hearing officer.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.7; Subpoenas. Pursuant to the commission's authority granted in Section 25-4-19, Miss. Code of 1972, the hearing officer shall issue subpoenas, including subpoenas duces tecum, upon the request of a party, in accordance with these rules. Subpoenas may be issued only for the following purposes:

- (A) To compel a non-party witness to appear and give oral testimony at any hearing scheduled under these regulations; or
- (B) To compel any person to appear at the hearing on the merits of the case, to give testimony, or to produce documents or other tangible things.

Subpoenas shall be submitted to the hearing officer for issuance on a form approved by the Commission. Concurrently with the submission of the subpoena to the hearing officer, the requesting party shall serve a copy on all of the parties to the proceeding and shall file proof of such service with the hearing officer. All subpoenas issued shall be filed with the commission.

Subpoenas shall not be issued in blank. A subpoena submitted for issuance must contain the title and number of the case, the name of the person to whom it will be directed, the date, time and place of hearing or deposition, and the name and signature of the requesting party or his attorney. A subpoena duces tecum must, in addition, contain a complete description of specific documents or other tangible things that the witness will be required to produce at the hearing.

Unless the witness agrees otherwise, a subpoena issued for the purposes provided in this rule must be served by the requesting party at least ten (10) calendar days prior to the hearing. A subpoena will be issued during the hearing or on less than ten (10) days' notice only upon order of the hearing officer for reasonable cause shown by the requesting party. Proof of service shall be filed with the commission.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.8; Protective Orders. Pursuant to the commission's authority granted in Section 25-4-19, upon motion by a party or by a person to whom a subpoena is directed, or from whom documents or testimony is sought, the hearing officer may enter a protective order quashing or modifying the subpoena for good cause shown.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.9; Motions. All motions shall be in writing, unless made during a hearing. A motion shall state with particularity the grounds therefore, shall be supported by a memorandum of authorities, and shall set forth the relief or order sought. Every written motion shall be filed with the hearing officer and served by the moving party upon the opposing party or as the hearing officer directs.

An opposing party shall have ten (10) calendar days after service of the motion within which to file and serve a memorandum of authorities in opposition to the motion. The moving party shall have five (5) calendar days after service of the opposing memorandum to serve and file a reply

memorandum of authorities if he so desires. If a motion or opposition is served by mail, three (3) calendar days shall be added to the time periods specified herein for response.

The failure of a moving party to file a memorandum of authorities in support of a motion shall constitute consent to the denial of the motion. The failure of an opposing party to file a memorandum of points and authorities in opposition to any motion shall constitute consent to the granting of the motion.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.10; Conduct of Hearings. Pursuant to Section 25-4-107, Miss. Code of 1972, hearings shall be conducted according to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence. The Mississippi Rules of Civil Procedure applicable to these hearings are Rules 42, 43, 50, 52 and 53. Other Mississippi Rules of Civil Procedure do not apply to these hearings.

The following procedures will apply when appropriate:

- A. The respondent will be allowed to present and argue any legal objections to the complaint set forth in the answer; the commission staff may thereupon present its answering argument; and thereafter the respondent may present rebuttal argument. The matter will then be submitted to the hearing officer for decision. The hearing officer may rule upon such objections immediately or take the matter under advisement and proceed with the hearing.
- B. The commission staff will present its opening statement on the merits. The respondent will then be permitted to make an opening statement of the defense, or he may reserve the same until commencement of the presentation of the defense.
- C. The commission staff will then present its case in chief in support of the complaint.
- D. Upon conclusion of the commission staff's case in chief, the respondent may move for dismissal of the complaint. The hearing officer may hear arguments on the motion, or may grant, deny, or reserve decision thereon, with or without argument.
- E. If no motion to dismiss is made, or if such motion is denied or decision reserved thereon, the respondent shall thereupon present the case for the defense.
- F. Upon conclusion of the respondent's case, the commission staff may present its case in rebuttal.
- G. Upon conclusion of the commission staff's case in rebuttal, the commission staff shall present its closing argument, the respondent may present answering argument, and thereafter the commission staff may present rebuttal argument. Thereupon the matter will stand submitted for decision.
- H. The hearing officer may ask questions of witnesses, and may request or allow additional evidence at any time, including additional rebuttal evidence.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.11; Failure or Refusal to Testify. If a respondent fails to testify in his own behalf or asserts a claim of privilege with respect to any question propounded to him, the hearing officer may infer therefrom that such testimony or answer would have been adverse to his case.

If any person controlling, controlled by, or under common control with, or employed by, or an agent of, a respondent fails to respond to a subpoena, or asserts a claim of privilege with respect to any question propounded to him, the hearing officer may, taking into account all of the circumstances, infer that such testimony would have been adverse to the respondent.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.12; Continuances. Continuances shall not be granted by the hearing officer except for good cause shown.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.13; Defaults. Failure of a respondent to appear personally at a hearing on the merits without having obtained a waiver of appearance, shall constitute an admission of all matters and facts alleged against such respondent, and shall be deemed a waiver of the right to an evidentiary hearing. In such cases the hearing officer may take action based upon such admission or upon any other evidence, including affidavits, and without any further notices whatever to the respondent.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.14; Recommendation of the Hearing Officer and Decision of the Commission. All findings of fact made by the hearing officer shall be based upon clear and convincing evidence. The hearing officer shall reduce his recommendations to writing and submit those recommendations to the Commission. The hearing officer shall include written recommendations regarding penalties, if any. The hearing officer shall appear before the Commission upon request to participate in deliberation required to render a decision on the merits. The Commission can enter a final order dismissing the case, modifying the report and recommendation, or adopting the report and recommendation, or the Commission can enter an order remanding the case for further hearing.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Rule 6.15; Post-hearing phase. After conclusion of the hearing, the commission or any hearing officer appointed hereunder shall reduce its decision to writing and forward a certified copy thereof to the last known address of the respondent, the complainant and the executive director by way of United States first-class, certified mail, postage paid.

The cost of the preparation of the record of the proceedings for purpose of an appeal from a decision of the Ethics Commission shall be assessed to and prepaid by the party filing the notice of appeal in accordance with the Uniform Rules of Circuit and County Court. Such cost shall be

paid upon filing the notice of appeal pursuant to Rules 5.04 and 5.09 of the Uniform Rules of Circuit and County Court.

Source: Sections 25-4-15, 25-4-17 and 25-4-107, Miss. Code of 1972.

Part 201; Chapter 7: Written Opinions of the Executive Director

Rule 7.1; Effect of Opinions. As set forth in Section 25-4-17, Miss. Code of 1972, any written opinion of the executive director shall be based upon prior opinions issued by the commission or reported court decisions of Mississippi courts, are not binding on the commission, shall not be published, and shall be ratified or rejected by the commission at the next subsequent meeting of the commission.

If the commission ratifies the opinion, the requestor shall not be liable for funds described in the request for opinion, and the requestor shall enjoy the immunity from liability set forth elsewhere in Section 25-4-17. If the commission rejects the opinion, the requestor shall not be liable for funds described in the request for opinion that are paid before receipt of notice that the opinion had been rejected by the commission.

Source: Section 25-4-17, Miss. Code of 1972.

Rule 7.2; Limitations of Opinions. The executive director is hereby authorized to issue written opinions as set forth in Section 25-4-17, Miss. Code of 1972, and in these rules. The executive director may issue written opinions, in his discretion, when the circumstances presented by the requestor are such that awaiting an opinion by the commission

- A. would impose an undue inconvenience upon the requestor or
- B. could result in a violation of law.

The executive director may not issue written opinions regarding past action. Any request for a written opinion of the executive director must be submitted in writing in a manner which satisfies the executive director that the person submitting the request is in fact the same person he or she purports to be and that the person submitting the request is seeking advice on his or her own behalf or on behalf of another person with that other person's permission.

A request for a written opinion of the executive director may only be submitted by or on behalf of a "public servant," as defined in Section 25-4-103, Miss. Code of 1972, someone who may be a public servant or someone who is considering candidacy, appointment or employment as a public servant.

Within ninety-six hours of ratification or rejection of the opinion of the executive director, the commission's staff shall transmit written notification to the requestor regarding the nature of the commission's action on the opinion. The commission's staff shall keep a complete, indexed record of all opinions issued by the executive director.

Source: Section 25-4-17, Miss. Code of 1972.

Part 201 Chapter 8: Rulemaking Oral Proceedings

Rule 8.1; Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the Ethics Commission (hereinafter referred to as “commission”) pursuant to the Administrative Procedures Act.

Source: Section 25-43-2.105, Miss. Code of 1972.

Rule 8.2; Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2” x 11” white paper.
- B. The request may be in the form of a letter addressed to the commission or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: Section 25-43-2.105, Miss. Code of 1972.

Rule 8.3; Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State’s Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Executive Director of the Ethics Commission, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: Section 25-43-2.105, Miss. Code of 1972.

Rule 8.4; Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

- A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
- B. Persons wishing to make oral presentations at such a proceeding shall notify the commission at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the commission prior to the proceeding.

- C. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
- D. The presiding officer may place time limitations on individual presentations to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
- E. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
- F. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: Section 25-43-2.105, Miss. Code of 1972.

Rule 8.5; Submissions and Records. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the commission, part of the rulemaking record, and are subject to the commission's public records request procedure. The commission may record oral proceedings by stenographic or electronic means.

Source: Section 25-43-2.105, Miss. Code of 1972.

Part 201 Chapter 9: Organization of the Ethics Commission

Rule 9.1; Ethics Commission Responsibilities. The Ethics Commission administers and enforces the Ethics in Government Law, codified as Sections 25-4-1 through 25-4-119, Miss. Code of 1972, and related authorities. The Commission's three primary roles within the Ethics Law are to receive Statements of Economic Interest for filing by public officials and candidates, and make the completed forms available for public inspection; to process sworn complaints and investigate alleged violations of law by public servants; and to issue written advisory opinions to public servants regarding the conflict of interest laws. The Ethics Commission also enforces the Open Meetings Act, issues decisions on the Public Records Act and handles administrative appeals taken under the Lobbying Law Reform Act of 1994.

Source: Sections 25-4-1 through 25-4-119, Section 25-41-15, Section 25-61-13 and Section 5-8-17, Miss. Code of 1972.

Rule 9.2; Ethics Commission Organization. The commission shall annually elect one (1) member to serve as chairman of the commission, one (1) member to serve as vice chairman and

one (1) member to serve as secretary. The vice chairman shall act as chairman in the absence or upon the disability of the chairman or in the event of a vacancy of the office of the chairman. Five (5) members of the commission shall constitute a quorum. Five (5) members of the commission shall vote in the affirmative before any official action can be taken by the commission. Execution of such official action may be delegated to the chairman or executive director of the commission.

The commission shall appoint an executive director to serve at the pleasure of the commission. The executive director shall possess a high degree of professional competence and integrity. The executive director shall be responsible for the administrative operations of the commission and shall perform other such duties within its powers as may be delegated or assigned from time to time by regulations or orders of the commission. The commission, by and through its executive director, may employ the personnel necessary to properly discharge the duties and responsibilities of the commission, subject to budgetary limitations. Such personnel shall possess a high degree of professional competence and integrity in the area in which employed.

Source: Sections 25-4-9, 25-4-11 and 25-4-15, Miss. Code of 1972.

Rule 9.3; Contact Information. Contact information for the Ethics Commission is provided at www.ethics.state.ms.us.

Source: Section 25-43-2.104, Miss. Code of 1972.