MISSISSIPPI COMMISSION ON THE STATUS OF WOMEN
ADMINISTRATIVE RULES AND PROCEDURES

TITLE 18: HUMAN SERVICES

Part 201: Mississippi Commission on the Status of Women's Administrative Law

Part 201: Chapter 1 Method of Operation

Rule 1.1 Scope. These rules are promulgated pursuant to the Mississippi code of Administrative Procedures Law contained in the Mississippi Code of 1972 as amended.

Source: *Miss. Code Ann. §25-43-2.104.*

Rule 1.2 Composition and Appointment. The Board shall consist of thirteen (13) members to be appointed with the advice and consent of the Senate. Four (4) members shall be appointed by the Governor, including a current or former food stamps recipient and a single parent. Three (3) members shall be appointed by the Lieutenant Governor, including a current or former college educator with expertise in women's issues. Three (3) members shall be appointed by the Speaker of the House of Representatives, including a health care professional knowledgeable in women's issues. The members of the Commission shall be women and/or men with recognized ability and achievement who are representatives of the ethnic, geographic, socioeconomic and cultural diversity of the population of this state, and who have a proven record of efforts to improve the status of women. The Commission shall elect a chair, vice chair and a secretary, and may also elect a treasurer from among its members for terms of two (2) years each. Any member is eligible for successive elections to office.

Source: *Miss. Code Ann. §43-59-3(3).*

Rule 1.3 Elections/Responsibilities of Officers.

1. Officers of the Commission shall be Chair, Vice-Chair, Secretary and Treasurer. Officers may serve consecutive terms in the same office if elected. Duties of the Officers shall include serving on the Executive Committee and running the day-to-day operations of the Commission.

2. The Chair will preside at all meetings of the Commission and the Executive Committee, approve all expenditures and contracts and supervise, with the advice and consent of the Executive Committee, the day-to-day operations of the Commission. The Chair will sign all contracts. The Chair will be the Ex Officio member of and provide assistance to all committees.

3. The Vice-Chair will preside at all meetings in the absence of the Chair, serve on the Executive Committee and perform any other duties deemed necessary by the Chair and the Executive Committee.

4. The Secretary will keep the official record of all meetings, supervise the writing and distribution of minutes and meeting notices, serve on the Executive Committee and perform any duties appropriate to the office.

5. The Treasurer will supervise the financial accounts of the Commission, report to the meetings of the Commission and serve on the Executive Committee. The Treasurer and the Executive Committee will recommend an annual budget for approval by the Commission. The Treasurer will provide monthly financial reports.

Source: *Miss. Code Ann. §43-59-3(3) & §43-59-5(f).*

Rule 1.4 Responsibilities/Authorities of Executive Committee. The Executive Committee will be made up of Officers of the Commission. The Commission Chair will serve as Chair of the Executive Committee. The Executive Committee will meet at least quarterly, usually in conjunction with the monthly Commission meeting. The Executive Committee will plan the agenda for Commission meetings. The Executive Committee will report at Commission meetings, making recommendations on policies, programs, projects and other business subject to approval of the Commission. Executive Committee meetings may be called, with twenty-four hours notice, by the Chair or three members of the Executive Committee. Public notice of the meeting must be posted. Two members of the Executive Committee constitute a quorum for purposes of holding a meeting. The Executive Committee will be responsible for the operation of the Commission office. The Executive Committee will supervise and direct other staff, interns and volunteers.

Source: *Miss. Code Ann. §43-59-5(f).*

Rule 1.5 Official Representation on Behalf of the Commission. The Chair is the official representative for the Commission. The Vice-Chair or other officer may officially represent the Commission at the discretion of the Chair or by consensus of the Executive Committee. Any Commissioner may be authorized by the Chair or the Executive Committee to officially represent the Commission at a particular function. However, the Commission can only speak through its minutes, as approved by the Commission.

Source: *Miss. Code Ann. §43-59-5 & §25-43-2.104(a).*

Rule 1.6 The Attorney General's Office. The Attorney's Office shall be the legal liaison to the Commission and shall provide legal counsel. The Chair will submit requests for legal opinions in writing.

Source: *Miss. Code Ann. §43-59-5(e).*

Rule 1.7 Quarterly Meetings. The Commission will hold four (4) quarterly meetings annually. The meetings will begin at 1:30 p.m. or as soon as thereafter as practicable. The Commission may vote at any time to change the date, time or location of the meeting. The Chair or Executive Committee may poll members to make changes for a particular meeting because of special circumstances. The date, time and location of any meeting will be posted at a designated state office building for public notice of such meeting. The Commission may call special meetings when necessary.

Source: *Miss. Code Ann. §43-59-5(f).*

Rule 1.8 Called Meetings. The Commission, the Executive Committee or the Chair may schedule a special meeting called to discuss a specific item or items of business. All Commission members must be notified by mail, phone, fax or email. The date, time and location of any called meeting will be posted at a designated state office building for public notice of such meetings in accordance with the Open Meetings Act.

Source: *Miss. Code Ann. §43-59-5(f).*

Rule 1.9 Quorum. A quorum must be present in order to take formal action on any item. A printed agenda will be prepared by the Executive Committee. Commissioners may request that topics be included on the agenda. Any additions to the agenda must be approved by a majority of members present. For purposes of conducting the business of the Commission, seven members present will constitute a quorum.

Source: *Miss. Code Ann. §43-59-3(4).*

Rule 1.10 Committee Meetings.

1. Executive Committee meetings and standing committee meetings may be held on the day of the regular Commission meeting or called by the Commission Chair and/or the Executive Committee. Committee members shall be notified in a timely manner by mail, phone, fax, or email. Public notice for these meetings is required.

2. Committees are strongly encouraged to conduct teleconference meetings when possible. The date and time of a teleconference must be posted at a designated state office building when public notice is required.

3. The Commission may appoint advisors and volunteers to lead commissions, identify and conduct projects and perform other needed services for the Commission (subject to the roles and responsibilities delineated by the Commission).

Source: *Miss. Code Ann. §43-59-5(f); §25-41-5(2) & 3(a); §43-59-5(g).*

Rule 1.11 Per Diem/Expense Reimbursements.

1. Commissioners shall be eligible for the state approved per diem for attending regular Commission meetings, called meetings, and committee meetings. Any other meeting or activity which may qualify for per diem must be authorized by the Commission, the Executive Committee or the Committee Chair. Expenses will be reimbursed by State policy and reimbursement procedures.

2. Expenses incurred by a Commissioner on behalf of the Commission must be submitted to the Commission Chair for reimbursement. Expenses should be approved by the Executive Committee, the Commission Chair or the Commission prior to making disbursement for such expenses. All expenses should be submitted to the Chair for approval within 60 days of the time such expense is incurred. In the month of June, limits would be reduced to thirty days to comply with limitations imposed by end of fiscal year accounting procedures and requirements. No exceptions can be made. Any unreported expenses will be lost to the person incurring them.

Source: *Miss. Code Ann. §43-59-3(5); §25-3-41 & §25-3-69.*

Rule 1.12 Commission Budget Administration. All legislated monies must be dispersed within the guidelines of the approved Commission budget and administered according to the state accounting procedures. Non-legislative monies will be appropriated and dispersed according to the will of the Commission with the state guidelines. The Chair will approve all expenditures within the Commission budget except as otherwise noted; the Treasurer and Executive Committee may transfer funds from one category to another where appropriate and necessary. The Executive Committee is authorized to expend or commit remaining funds not expended or committed before the end of June each year for the purpose of the Commission.

Source: *Miss. Code Ann. §43-59-11.*

Rule 1.13 Presentations At Commission Meetings. Guest presentations to the Commission will be limited to ten minutes or less at the discretion of the Chair or a sitting majority of the membership. Guests shall address the Commission at the conclusion of the regular Commission business, unless otherwise desired by the Commission. If several guests request to address the Commission relative to a single issue, the time allotment may be extended upon approval of members present.

Source: *Miss. Code Ann. §25-43-2.104 (Rev. 2010).*

Rule 1.14 Parliamentary Procedures. The business of the Commission, not covered by the policies and procedures of the Commission, will be conducted using the most current edition of Robert's Rules of Order as a guide.

1. Any individual seeking to inspect, copy, mechanically reproduce, or obtain a reproduction of any public record of the Commission shall make a signed, written request to be mailed to the Executive Director of the Mississippi Commission on the Status of Women, Post Office Box 1997, Ridgeland, Mississippi 39158-1997.

2. The written request must be typed or clearly hand printed on a letter sized piece of paper and shall specify in detail the public sought. The request should include if possible a description of the type of record, dates, title of publication and other information which may aid in locating the record.

3. The written request must specify what the applicant proposes to do with the record, i.e., inspect, copy, etc.; state the date and time for the proposed activity; state the number of persons scheduled to participate and shall provide the name, address and home and office telephone numbers of the applicant.

4. The Executive Director, upon receipt of any such request, shall review same and determine whether the records sought are exempt under the Mississippi Public Records Act and shall either produce records or access to records or deny access to or production of the records sought within seven (7) working days from the date of the receipt of the request for production of the record. If the Board is unable to produce public record provide a written explanation to the person making the request stating that the record requested will be produced and specifying with particularly why the records cannot be produced within the seven-day period. Unless there is a mutual agreement of the parties, in no event shall the date for the Board's production of the request for records be any later than fourteen (14) working days from the receipt of the original request.

5. All inspection, copying or mechanical reproduction shall be done in the offices of the board or such other responsible place within the State of Mississippi as may be designated by the Commission. It shall be the duty of the applicant to contact the Chair by phone before noon of the first working day preceding the proposed date set out in the application to determine if same is applicable. If not applicable, determine what date and time will be substituted.

6. Where possible, nonexempt material will be separated from exempt material and only the exempt material will be withheld.

7. If the Chair determines that the records requested are exempt or privileged under the law, she shall deny the request and send the person making the request a statement of specific reasons for the denial. Such denials shall be kept on file for inspection by any person for three (3) years.

8. The Chair is authorized to calculate the estimated cost of searching, obtaining from storage, reviewing, shipping and/or duplicating records to require payment in advance of such estimated charges prior to complying with the request. There shall be $.50 per page for each copy. Copies printed on both sides (front & back) shall be considered as two pages for copy charge purposes. Mailing copies shall be calculated at the applicable rate for each such mailing. If the request involves notice to be given to a third party, the cost of mailing such notice via certified mail return receipt requested shall be charged to the person requesting such public records. In the event the actual cost of such activity exceeds the estimate, the Chair is authorized to withhold mailing or delivery of said documents or to delay the inspection until the difference is paid.

9. There shall be no charge for inspection of the current Commission records maintained at the Commission office. Cost of obtaining records from any state storage facility and the search for the document shall be charged to the applicant.

10. The Chair may waive any or all of the foregoing requirements related to written notice, time, and method of access prepayment of expenses whenever the determination is made that such waiver would be in the public interest.

Source: Miss. Code Ann. §43-59-5; §25-41-5 & §43-59-5

Rule 1.15 Immunity. Commissioners and committee of the Commission shall be immune from civil suit for any conduct arising out of the performance of their official duties.

Source: *Miss. Code Ann. §11-46-1, et. seq.*

Part 201 Chapter 2 Oral Proceedings on Proposed Rules

Rule 2.1 Scope. Rule is promulgated pursuant to Miss. Code Ann. §25-43-3.104(2)(d) of the Administrative Procedures Law, applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments before the Commission under Miss. Code Ann. §25-43-3.104.

Source: *Miss. Code Ann. §25-43-3.104.*

Rule 2.2 When Oral Proceedings will be Scheduled on Proposed Rules. The Commission will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons, in writing within twenty (20) days after the filing of the notice of the proposed rule.

Source: *Miss. Code Ann. §25-43-3.104(2)(a).*

Rule 2.3 Request Format. Each request must be printed, typewritten or legible in handwriting. Each request must be submitted on standard business letter-sized paper (8 ½ inches by 11 inches). Requests may be in the form of a letter addressed to the Commission and signed by the requestor(s).

Source: *Miss. Code Ann. §25-43-3.104(2)(a).*

Rule 2.4 Notification of Oral Proceeding. The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.

Source: *Miss. Code Ann. §25-43-3.104(b).*

Rule 2.5 Presiding Officer. The Chair or the Chair's designee who is familiar with the substance of the proposed rule shall preside at the oral proceeding on a proposed rule.

Source: *Miss Code Ann. §25-43-3.104(2)(c).*

Rule 2.6 Public Presentations and Participation.

1. At an oral proceeding on a proposed rule, persons may make oral statements, documentary and physical submissions which may include data, views, comments or arguments concerning the proposed rule.

2. Persons wishing to make oral presentations at such a proceeding shall notify the presiding officer at least one business day 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 who have not previously contacted the Commission.

3. 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.

4. The presiding officer may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral 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.

5. Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.

6. There shall be no interruption of a participant who has been given the floor by the presiding officer, except that the presiding officer may in his or her discretion interrupt or end the participant's time where the orderly conduct of the proceeding so requires.

Source: *Miss. Code Ann. §25-43-3.104(2)(d).*

Rule 2.7 Conduct of Oral Proceeding.

1. Presiding officer. The presiding officer shall have authority to conduct the proceeding in his or her discretion for orderly conduct. The presiding officer shall (I) call proceeding to order; (II) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, (III) call on those individuals who have contacted the Commission about speaking on or against the proposed rule, (IV) allow for rebuttal statements following all participants' comments (V) adjourn the proceeding.

2. Questions. The presiding officer, where time permits, to facilitate the exchange of information, 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 submission made by those participants in that proceeding, but no participant shall be required to answer any question.

3. Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the Commission and are subject to the Commission's public records request procedure.

4. Recording. The Commission may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann. §25-43-3.104(2)(d).*

Part 201 Chapter 3 Declaratory Opinions

Rule 3.1 Scope. Chapter 3 is promulgated pursuant to Miss. Code Ann. Miss. §25-43-2.103(2) of the Administrative Procedure Law and is intended to set forth the Commission's rules governing the form and content of requests for declaratory opinions and the Commission's procedures regarding the requests as required by Miss. Code Ann. Miss. §25-43-2.103. These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Procedures Law, the latter shall govern.

Source: *Miss. Code Ann. §25-43-2.103(2).*

Rule 3.2 Persons Who May Request Declaratory Opinions. Any person with a substantial interest in the subject matter may request a declaratory opinion from the Commission by following the specified procedures. "Substantial interest in the subject matter" means: as individual, business, group or other entity that is directly affected by the Commission's administration of the laws within its primary jurisdiction. "Primary jurisdiction of the agency" means the agency has a constitutional or statutory grant of authority in the subject matter of the issue.

Source: *Miss. Code Ann. §25-43-2.103(1).*

Rule 3.3 Subjects Which May Be Addressed in Declaratory Opinions. The Commission will issue declaratory opinions regarding the applicability to specified facts of: (1) a statue administered or enforceable by the Commission or (2) a rule promulgated by the Commission. The Commission will not issue a declaratory opinion regarding a statue or rule which is outside the primary jurisdiction of the agency.

Source: *Miss. Code Ann. §25-43-2.103.*

Rule 3.4 Circumstances in which Declaratory Opinions will not be Issued. The Commission may for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to the following:

1. There is a lack of clarity concerning the question presented.

2. There is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary.

3. The statue or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request.

4. The facts presented in the request are not sufficient to answer the question presented.

5. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules.

6. The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statue or rule on which a declaratory opinion is sought.

7. No controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statue or rule.

8. The question presented by the request concerns the legal validity of a rule or rule.

9. The request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct.

10. No clear answer is determinable.

11. The question presented by the request involves the application of a criminal statue or a set of facts which may constitute a crime.

12. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure.

13. The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion.

14. A similar request is pending before this agency, any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal or where such an opinion would constitute the unauthorized practice of law.

15. Issuance of a declaratory opinion may adversely affect the interests of the State, the Commission or any of their officers or employees in any litigation which is pending or may reasonably be expected to rise.

16. The question involves eligibility for a license, permit, certificate or other approval by the Commission or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

Source: *Miss. Code Ann. §25-43-2.105.*

Rule 3.5 Written Requests Required. Each request must be printed, typewritten or in legible handwriting. Each request must be submitted on standard business letter-sized paper (8 ½ inches by 11 inches). Requests may be in the form of a letter addressed to the Commission.

Source: *Miss. Code Ann. §25-43-2.105.*

Rule 3.6 Where to Send Requests. All requests must be mailed or delivered to:

The Mississippi Commission on the Status of Women
Post Office Box 1997
Ridgeland, Mississippi 39158-1997
ATTN: DECLARATORY OPINION REQUEST

The request shall clearly state that it is a request for a declaratory opinion. No oral, telephone or email requests will be accepted for official opinions.

Source: *Miss. Code Ann. §25-43-2.105.*

Rule 3.7 Name, Address and Signature of Requestor. Each request must include the full name, telephone number and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the compliments with the requirements set forth in these rules, including but not limited to a full, complete and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.

Source: *Miss. Code Ann. §25-43-2.105.*

Rule 3.8 Question Presented. Each request shall contain the following:

1. A clear and concise statement of all facts on which the opinion is requested;

2. A citation to the statue or rule at issue;

3. The question(s) sought to be answered in the opinion, stated clearly;

4. A suggested proposed opinion from the requestor, stating the answers desired by the petitioner and a summary of the reasons in support of those answers;

5. The identity of all other known persons involved in or impacted by the described factual situation including their relationship to the facts, name, mailing address and telephone number; and

6. A statement to show that the person seeking the opinion has a substantial interest in the subject matter.

Source: *Miss. Code Ann. §25-43-2.105.*

Rule 3.9 Time for Commission's Response. Within forty-five (45) days after the receipt of a request for declaratory opinion which complies with the requirements of these rules, the Commission shall, in writing:

1. Issue a declaratory opinion regarding the specified statue or rule as applied to the specified circumstances;

2. Decline to issue a declaratory opinion stating the reasons for its actions; or

3. Agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request.

Source: *Miss. Code Ann. §25-43-2.103(3).*

Rule 3.10 Opinion Not Final for Sixty Days. A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of the sixty (60) days, the Commission may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

Source: *Miss. Code Ann. §25-43-2.105 (Rev. 2006).*

Rule 3.11 Notices by Commission to Third Parties. The Commission may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts arguments and opinions from other persons, agencies or other entities other than the requestor.

Source: *Miss. Code Ann. 25-43-2.105 (Rev. 2006).*

Rule 3.12 Public Availability of Requests and Declaratory Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and the Commission's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann. §25-43-2.105 (Rev. 2006).*

Rule 3.13 Effect of Declaratory Opinion. The Commission will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the Commission and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Commission shall be binding only on the Commission and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

Source: *Miss. Code Ann. §25-43-2.103 (Rev. 2010).*