

## **Title 10: Education Institutions and Agencies**

### **Part 501: Statewide Longitudinal Data System Governing Board Rules & Regulations**

#### **Part 501 Chapter 1: STATUTORY AUTHORITY**

*Rule 1.1: Statutory Authority.* The SLDS Governing Board was established effective July 1, 2013 through Mississippi Code Annotated § 37-154-1 and 37-154-3.

The SLDS Governing Board is authorized to develop and promulgate all rules and regulations governing the activities of the SLDS in accordance with applicable state and federal laws. The board is authorized to contract with a third party to manage and maintain the system and to insure the policies and procedures developed by the board are enforced.

The SLDS Governing Board shall be responsible for, but not limited to, the following objectives:

- A. Identifying critical research and policy questions that need to be addressed by education (P-20) and workforce programs;
- B. Identifying reports and other information that should be available to education and workforce entities and other public stakeholders;
- C. Developing a funding mechanism for sustaining the system after it is developed;
- D. Defining and maintaining standards for privacy, confidentiality and security of data; and
- E. Performing other advisory functions that are necessary for the successful continuation and management of the longitudinal data system.

A Statewide longitudinal data system is one that collects, connects, and maintains data from distinct systems within governmental entities over time. Longitudinal data extends into the past as well as the present so that progress and outcomes can be measured with reasonable precision rather than relying on a simple snapshot.

*Rule 1.2: Organization and policy and procedure.* Miss. Code Ann. §37-154-3 provides that the SLDS Governing Board shall be composed of a representative from each agency or entity providing data to the system and that each agency or entity will appoint their representative to sit on the Governing Board. For the two (2) years following July 1, 2013, the State Workforce Investment Board Chair will also serve as Chair of the SLDS Governing Board. In subsequent years, the SLDS Governing Board will elect a chair from among its members. The Chair of the SLDS Governing Board will serve a two-year term.

The Chair will appoint a vice-chair. Half of all board members shall be a quorum. The chairman shall be responsible for ensuring official minutes of each meeting are kept.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 2: SYSTEM MANAGEMENT**

*Introduction:* The SLDS Governing Board is authorized to contract with a third party to manage and maintain the system and to insure the policies and procedures developed by the board are enforced. The system shall be referred to as LifeTracks. LifeTracks includes activities within three categories:

- A. Securing and managing data;
- B. Supporting, maintaining, and expanding the online reporting portal ([www.lifetracks.ms.gov](http://www.lifetracks.ms.gov)); and
- C. Developing research design and methodology for the purpose of conducting scientific research that addresses policy and research questions.

*Rule 2.1: STATE DATA CLEARINGHOUSE.* The SLDS Governing Board shall enter into a five-year memorandum of agreement with a third party to serve as the state data clearinghouse and to ensure the policies and procedures developed by the SLDS Governing Board are enforced. The third party contractor shall be a center of excellence and a research organization with a demonstrated track record of combining and extracting information from disparate large administrative data sets; creating, preserving, analyzing, and reporting on those data in a safe and secure manner; ensuring user-friendly and timely access to a variety of stakeholders; and building and sustaining partnerships with data contributors. The third party shall also be an organization with the knowledge, experience, and resources necessary to provide flexible, streamlined services and to design and implement best practices for data integration and data security. The organization must have experience with SLDS-type architecture and data modeling, and be qualified to provide all necessary technical resources aligned with the scope and objectives of the SLDS.

Source: Miss. Code Ann. §37-154-3

*Rule 2.2: APPLICATION HOST.* The SLDS Governing Board shall select an entity to provide application hosting services for [www.lifetracks.ms.gov](http://www.lifetracks.ms.gov). No data shall reside on application host servers, only summary reports. The SLDS Governing Board shall make provisions for this as part of the contract with the third party contractor acting as the state data clearinghouse.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 3: DATA SCOPE**

*Rule 3.1: DATA SCOPE.* All data transferred for LifeTracks shall flow to the third party contractor in accordance with applicable SLDS Governing Board rules, regulations, policies and procedures and in accordance with applicable state and federal laws.

- A. Individual governmental entities shall transfer data to the third party contractor for inclusion in LifeTracks that includes:

1. All data transferred as part of the development of LifeTracks as specified in individual data dictionaries for each data stakeholder;
2. All data required to meet the 12 elements of the America COMPETES Act (Public Law 110–69);
3. Data necessary to provide decision makers a tool to develop policies to support objectives, including, but not limited to:
  - a. Enabling Mississippians to secure and retain employment and receive better pay after completing training or postsecondary degrees;
  - b. Enabling Mississippi to meet the education and job skill demands of business and industry;
  - c. Developing an early warning system, which allows the state to intervene early, improving the graduation rates in high school and college; and
  - d. Linking teachers, teaching methods and programs that lead to positive student outcomes.
4. All data necessary for the successful continuation, management, and development of the online reporting portal ([www.lifetracks.ms.gov](http://www.lifetracks.ms.gov)); and
5. All data required to fulfill authorized ad hoc research and reporting requests.

B. In an effort to maintain the highest degree of accuracy, LifeTracks shall adopt the business rules, logic, and calculation methodology of the contributing data provider. The third party contractor shall maintain agency/entity specific LifeTracks data dictionaries defining data elements:

1. Included in the development and initial deployment of LifeTracks;
2. Necessary for maintaining the system as deployed; and
3. Necessary for future development.

Copies of all agency/entity specific data dictionaries will be available to the public on the LifeTracks website.

Source: Miss. Code Ann. §37-154-3

*Rule 3.2: SOCIAL SECURITY NUMBERS.* The SLDS Governing Board is cognizant of the fact that it is necessary to transmit and process personal information in the form of Social Security Numbers (SSNs) in order to conduct the business of the board. The SLDS Governing Board takes its responsibilities with respect to the use of SSNs seriously and seeks to provide functional secure systems for the appropriate handling of this information through the use of administrative, technical, and physical safeguards. To comply with Miss. Code Ann. §25-1-111, the following have been established:

- A. Individual governmental entities shall transfer the SSN to the third party contractor for the purpose of creating a 10-digit unique identification number (ID10) created at random using a hardware based true random number generator that replaces the SSN and becomes the common link allowing all data in LifeTracks to be connected across different points in time. In regards to the Mississippi Department of Education, the specific method of transfer of data containing social security numbers or other unique identifiers is subject to written agreement by the SLDS Governing Board and the MDE.
- B. Destruction of SSN information that is no longer needed shall be handled in an approved manner and completed using accepted methods that will not enable inappropriate recovery of data.
- C. Individuals and entities are expected to comply with laws and policies pertaining to the collection and use of SSNs and are expected to take the steps necessary to protect this information.
- D. SSN information is exempt from inclusion as public record information and is never to be provided in response to such requests.

Source: Miss. Code Ann. §37-154-3

*Rule 3.3: IDENTIFICATION NUMBERS.* Agency/entity and/or program specific identification numbers shall also be transferred to the third party contractor for the purpose of conducting data validation and quality control activities and to allow individual governmental entities contributing data to LifeTracks to use information from LifeTracks for internal agency use.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 4: STANDARDS FOR PRIVACY, CONFIDENTIALITY & SECURITY OF DATA**

*Rule 4.1: SECURITY OF DATA.* The third party contractor will establish a framework to initiate and control the implementation of security policies and standards for the SLDS Governing Board. The Governing Board will ensure that the State Data Clearinghouse's security posture is adequate and compliant with the Department of Information Technology Services' Enterprise Information Security Plan and that an organizational structure is in place that focuses on information security.

In addition, the third party contractor shall establish processes and procedures for incident reporting objectives, goals and deliverables identified in the ITS Enterprise Security Policy and ITS Enterprise Information Security Plan.

All data transferred from individual governmental entities contributing data to LifeTracks to the third party contractor shall be held in a secure file location that is accessible only by authorized third party contractor personnel. This access limitation shall be enforced by third party contractor and board approved industry standard file access locks and an independent security system. The permissions structure shall be designed to only allow authorized users to access files. The independent security system shall be implemented to guard access to sensitive file storage areas and provide robust augmentation of security provided through file access locks and credentialing.

The third party contractor shall perform appropriate background checks and screening of all employees that have any access to the clearinghouse data.

The third party contractor shall employ technical safeguards to ensure personal information transmitted over an electronic communications network is not accessed by unauthorized persons or groups. Encryption shall be used when PII are in transmit or at rest. Unencrypted PII shall not be transmitted over public networks to third parties.

The third party contractor shall employ data integrity procedures that protect PII including mechanisms to authenticate records and corroborate that they have not been altered or destroyed in an unauthorized manner.

The third party contractor shall implement a risk assessment strategy plan that is updated annually which includes access and control processes, security risks, threats and vulnerabilities assessments, and methods for managing risks and incidents.

The third party contractor shall maintain and update the incident response plan that establishes procedures to follow in case a breach occurs and processes for notifying organizations in the event of unauthorized acquisition of files or documents. The third party contractor shall be subject to an annual external data security audit conducted by the Mississippi Office of the State Auditor.

Source: Miss. Code Ann. §37-154-3

*Rule 4.2: DE-IDENTIFICATION OF DATA.* All de-identification procedures shall be implemented with appropriate physical, technical, and administrative protections in place to maximize security, minimize risk, and ensure regulatory compliance. Data shall be de-identified through the ID10 process instituted in the development of LifeTracks wherein a 10-digit unique identification number (ID10) created from and replacing the SSN becomes the common link across all data in LifeTracks. An encrypted key held in a secure, offline location at the third party contractor's site shall allow for the matching of SSNs to the appropriate ID10 to ensure data can be reliably linked over time and across governmental entities contributing data to LifeTracks. The SSN shall only be used for assigning the ID10.

Other internal identification numbers shall remain part of the transferred data to facilitate data validation and matching and to allow governmental entities contributing data to LifeTracks to use information from LifeTracks for internal agency use.

Source: Miss. Code Ann. §37-154-3

*Rule 4.3: ID10 PROCESS.* A unique 10-digit identification number (ID10) created at random using a hardware-based true random number generator that uses quantum physics to generate random binary data has been assigned to each SSN. For all data transferred from governmental entities contributing data to LifeTracks to the third party contractor, the SSN shall be replaced with the ID10 that becomes the common link allowing all data in LifeTracks to be connected across different points in time.

Source: Miss. Code Ann. §37-154-3

*Rule 4.4: ADDITIONAL STANDARDS FOR PRIVACY AND CONFIDENTIALITY.* Additional privacy and confidentiality safeguards shall include only releasing information generated from the data transferred from individual state agencies and state entities to the third party contractor in tabular form via the online reporting portal ([www.lifetracks.ms.gov](http://www.lifetracks.ms.gov)) and applying appropriate data suppression techniques when cell sizes fail to meet minimum SLDS Governing Board defined reporting requirements.

The minimum allowable cell size or subgroup contained in any reports shall be not less than ten (10); any cell size or subgroup with a number smaller than ten (10) shall be suppressed.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 5: PROVIDING DATA**

*Introduction:* All data provided to the SLDS shall be provided in accordance with local, state and federal laws governing the protection and sharing of such data.

*Rule 5.1: DATA MANAGER.* All governmental entities contributing data to LifeTracks shall designate a data manager to serve as the primary point of contact for all LifeTracks activities at the beginning of each state fiscal year and communicate this in writing to the SLDS Governing Board Chair and the designated third party contractor.

The third party contractor shall be subject to an annual external audit conducted by the Mississippi Office of the State Auditor for compliance with SLDS Governing Board rules and regulations.

Source: Miss. Code Ann. §37-154-3

*Rule 5.2: MEMORANDUM OF UNDERSTANDING (MOU).* Memorandums of understanding (MOUs) shall be executed between the governmental entity providing data and the third party contractor to ensure the safety, quality, and integrity of data in accordance with state and federal law.

At any such time as the third party contractor shall change, new MOUs shall be executed between individual governmental entities contributing data to LifeTracks and the third party contractor.

Source: Miss. Code Ann. §37-154-3

*Rule 5.3: DATA TRANSFER.* Data shall be transferred from individual governmental entities contributing data to LifeTracks as necessary to meet the requirements of Chapter 3 and in accordance with applicable MOUs but not less than annually and no later than October 15 of each calendar year.

All data shall be transferred from individual governmental entities contributing data to LifeTracks via an SLDS Governing Board approved secure file transfer solution chosen by the third party contractor. The selected managed file transfer solution shall employ industry standard file transfer encryption and include the ability to assign private destination folders to each data exchange partner that shall be locked down with and credentialed to individual source users such that only they can see their own folder. All data received by LifeTracks shall be transferred to a secure work area that is only accessible to authorized staff.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 6: DATA VALIDATION**

*Rule 6.1: DATA INVENTORY.* Governmental entities shall submit data in accordance with state and federal law. Upon receipt of data, the third party contractor shall verify the list of data elements received from data contributors within ten (10) working days of receipt.

Upon verification of the list of fields, tables, and relationships between tables by the data contributor, the data shall undergo the complete LifeTracks data inventory process. The complete data inventory process shall include updating or creating data dictionaries and program data mapping documents. Data dictionaries shall include metadata such as meaning, relationship to other data, origin, usage, and format. Program data mapping documents shall provide information on how data fields relate to other data fields across multiple data sets. The program data mapping document shall be used to compare and contrast data elements collected across multiple governmental entities and over time.

Source: Miss. Code Ann. §37-154-3

*Rule 6.2: DATA VALIDATION.* Data validation shall be the primary responsibility of the third party contractor and undertaken in accordance with SLDS Governing Board rules and regulations and the terms of applicable MOUs. The business rules, logic, and calculation

methodology provided by the governmental entity contributing the data shall be used shall be used for data validation. The objective of the data validation process shall be to verify that data transferred by governmental entities contributing data to LifeTracks mirrors data contributor internal data so that accurate reports can be produced across systems.

The data validation process shall entail individual data contributors working closely with the third party contractor staff as part of a process designed to detect and correct inaccurate or incomplete records so that LifeTracks data will be consistent and reliable. Data validation diagnostics run to ensure high-quality, accurate, and complete data are available for LifeTracks shall include, but not be limited to:

- A. Checking that all tables, records, and fields, and the full contents of each field have been successfully transmitted and read;
- B. Comparing record counts between the source data and the data transmitted to the third party contractor; and
- C. Producing a report with basic summary statistics for validation by the data contributor.

Data contributors shall have thirty (30) working days to validate and approve their summary statistics reports prior to that data becoming public, as part of the LifeTracks online reporting system ([www.lifetracks.ms.gov](http://www.lifetracks.ms.gov)).

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 7: REPORTS**

*Rule 7.1: PRE-DEFINED REPORTS.* Access to agreed-upon pre-defined statewide aggregate reports shall be publicly available through the LifeTracks one-stop portal. Access to sub-state level reports shall be subject to role-based credentials. De-identified individual data points shall never be part of pre-defined reports and shall not be accessible through LifeTracks online portal.

Source: Miss. Code Ann. §37-154-3

*Rule 7.2: AD HOC REQUESTS AND REPORTS.* Data from LifeTracks shall be used to address requests that require data from multiple data contributors, and requests that are longitudinal in nature requiring data at different points in time along the education and workforce pathway. For longitudinal studies, requests can be categorized as one of three types of studies:

- A. Trend studies,
- B. Cohort studies, and
- C. Panel studies.

Trend studies are those requests that examine a given characteristic(s) of some group over time. Cohort studies are those requests that examine or study some specific sub-population (cohort)

over time. Panel studies are those requests that examine how the same members of a group progress along the education and workforce pathway. Trend, cohort, and panel studies will provide a true mechanism to evaluate the impact of policies, programs, and initiatives on education, workforce, and economic outcomes in the state to inform the development of strategic planning.

Requests for reports involving data within a single state agency/entity shall be referred to the relevant state agency/entity.

All requests for a report shall follow the process outlined below.

A. STEP 1: Request

A request shall be made through the online report request mechanism available through the LifeTracks web portal ([www.lifetracks.ms.gov](http://www.lifetracks.ms.gov)).

Submitting a request through the online mechanism shall result in immediate notifications being sent via email to:

1. The third party contractor
2. Each entity represented on the SLDS Governing Board

B. STEP 2: Review

The third party contractor shall review each request and categorize the request as either suitable for LifeTracks or to a specific agency/entity. If the request is suitable for LifeTracks, the third party contractor shall seek input from the appropriate data contributor(s) to produce a “request feasibility report” within seven (7) business days for submission to the Research Review and Standards Committee noting the requestor, the research question(s), the research methodology to be employed, the data requirements and appropriate data contributors.

C. STEP 3: Request Authorization

The Research Review and Standards Committee reviews request and seeks appropriate input from the data contributor. The Research Review and Standards Committee shall complete its review and provide written authorization to the third party contractor to proceed within ten (10) business days of receipt of the feasibility report.

Upon receiving authorization to proceed from the Research Review and Standards Committee, the third party contractor shall propose an estimated time line for fulfilling the request and shares with all parties involved.

The Research Review and Standards Committee will inform the third party contractor if the request is not approved. The Research Review and Standards Committee will provide written justification for the decision to the SLDS Governing Board. The SLDS Governing Board shall inform the requestor if the request is not approved.

D. STEP 4: Reviewing and Authorizing Report

The third party contractor conducts approved research/analysis activities and produces a draft report for submission to the Research Review and Standards Committee. Research Review and Standards Committee shall review the draft report and provide feedback.

E. STEP 5: Data Contributor Comments

The report is shared with the appropriate data contributors for an opportunity to review and formally comment on the report. Formal comments shall be included in the report returned to the requestor.

F. STEP 6: Disseminating Results

The report shall be made available to the requestor and posted online at [www.lifetracks.ms.gov](http://www.lifetracks.ms.gov).

Requests from the following entities will receive priority over any other requests:

- A. SLDS Governing Board Members;
- B. Governor's Office;
- C. Lt. Governor;
- D. All members of the Mississippi Legislature;
- E. Attorney General;
- F. Secretary of State;
- G. State Auditor;
- H. Other state leadership as approved by the SLDS Governing Board.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 8: ONLINE REPORTS**

*Rule 8.1 Online Reports.* To have new reports available on the LifeTracks portal a proposal including a report template, data required for the report and the methodology and/or business rules necessary to create the report shall be presented to the SLDS Governing Board for review and approval.

Upon approval, the SLDS Governing Board shall instruct the third party contractor to make the approved report available through the LifeTracks portal.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 9: LIFETRACKS ACCOUNTS**

*Rule 9.1: SLDS GOVERNING BOARD ACCOUNTS.* Requests for LifeTracks accounts to access full online reports shall be made to stakeholders and policymakers by submitting information required via the online account request form available at [www.lifetracks.ms.gov](http://www.lifetracks.ms.gov). The third party contractor shall notify the SLDS Governing Board. Upon approval by SLDS Governing Board, the third party contractor shall create the approved account.

Stakeholders and policymakers are those in state leadership positions with a direct role in developing and supporting state education and workforce objectives. Stakeholders and policymakers that can request LifeTracks accounts for access to full online reports shall be:

- A. SLDS Governing Board Members;
- B. Governor's Office;
- C. Lt. Governor;
- D. All members of the Mississippi Legislature;
- E. Attorney General;
- F. Secretary of State;
- G. State Auditor;
- H. Other state leadership as approved by the SLDS Governing Board.

Source: Miss. Code Ann. §37-154-3

*Rule 9.2: AGENCY/ENTITY ACCOUNTS.* LifeTracks accounts for access to full online reports shall be managed by the governmental entities contributing data to LifeTracks. Each data contributor can provide access to their own LifeTracks reports as it deems appropriate. Each data contributor shall notify the third party contractor of all accounts created and shall be fully responsible for any liability arising therefrom.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 10: PUBLIC RECORDS**

*Rule 10.1 Statutory authority and purpose.* These public records rules are promulgated by the SLDS Governing Board in compliance with the Mississippi Public Records Act of 1983, Miss. Code Ann. §25-61-1, et seq., except as noted in 3-3.2-D of these regulations.

“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 SLDS Governing Board 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 SLDS Governing Board and establish processes for both requestors and SLDS Governing Board 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 SLDS Governing Board will be guided by the provisions of the act describing its purposes and interpretation.

If the Contractor receives a public records request for information pertaining to SLDS or any data contributors, the third party contractor shall immediately inform all SLDS board members.

When the SLDS Governing Board receives a public records request, it shall immediately notify all SLDS Governing Board members.

Source: Miss. Code Ann. §37-154-3

*Rule 10.2 Contact information.* Any person wishing to request access to public records of the SLDS Governing Board, or seeking assistance in making such a request should make the request in writing to the Chair of the SLDS Governing Board.

Information is also available on the LifeTracks website at [www.lifetracks.ms.gov](http://www.lifetracks.ms.gov).

Source: Miss. Code Ann. §37-154-3

*Rule 10.3 Availability of public records.* Any person wishing to request access to public records of the SLDS Governing Board is encouraged to view the documents available on the LifeTracks web site prior to submitting a records request.

- A. Any person wishing to inspect or copy public records of the SLDS Governing Board should make the request in writing to the SLDS Governing Board and including the following information:
  - 1. Name of requestor;
  - 2. Address of requestor;
  - 3. Other contact information, including telephone number and any e-mail address;
  - 4. Identification of the public records adequate so that the record may be located; and
  - 5. The date and time of day of the request.
  
- B. 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. The SLDS Governing Board shall determine the cost of providing access to and/or copies of the records being requested. Upon receipt of the payment (cash, check, or money order) of the estimated costs in advance, the SLDS Governing Board will provide copies of the records.

Source: Miss. Code Ann. §37-154-3

*Rule 10.4 Processing of public records requests.* The SLDS Governing Board 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 rules (Miss. Code Ann. §25-61-1 and §25-61-5). The SLDS Governing Board will process requests in the order allowing the most requests to be processed in the most efficient manner.

- A. Acknowledging receipt of request. Within seven (7) business days of receipt of the request, the SLDS Governing Board 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; for records that do not fall within the provisions of Mississippi Code Annotated §25-61-9 regarding third party notification requirements, the SLDS Governing Board will provide a written explanation if the records cannot be produced within the seven (7) business day period;
  - 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 SLDS Governing Board or designee may revise the estimate of when records will be available;
  - 5. Deny the request, with documentation to the requestor as to the reason for denial.
- B. Consequences of failure to respond. If the SLDS Governing Board does not respond in writing within seven (7) business days of receipt of the request for disclosure, the requestor should consider contacting the SLDS Governing Board to determine the reason for the failure to respond.
- C. 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 SLDS Governing Board 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.
- D. Denial of request.

1. Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part. If the SLDS Governing Board believes that a record is exempt from disclosure and should be withheld, the SLDS Governing Board 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 SLDS Governing Board will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.
  2. Record does not exist or SLDS Governing Board does not have the record. The SLDS Governing Board must only provide access to public records in existence at the time of the request. If a public record is created or comes into the possession of the SLDS Governing Board after the request is received by the SLDS Governing Board, that record will not be provided. The requestor must make a new request to obtain subsequently-created public records.
- E. Inspection of records. Consistent with other demands and with prior written notice by the requestor to the SLDS Governing Board, it shall promptly provide space to inspect nonexempt 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 ten (10) business days of the SLDS Governing Board notification to him or her that the records are available for inspection or copying. The SLDS Governing Board will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the SLDS Governing Board 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 ten-day period or make other arrangements, the SLDS Governing Board 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.
- F. Providing copies of records. After inspection is complete, the SLDS Governing Board shall make the requested copies or arrange for copying. The requestor must provide payment for copies at the time copies are made. Alternatively, the requestor may ask that the SLDS Governing Board provide the requested information directly to the requestor, in printed or electronic form, without prior inspection of the information by the requestor.
- G. Providing records in installments. When the request is for a large number of records, the SLDS Governing Board 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 ten (10) business days, the requestor fails to inspect the entire set of records or one or more of the installments, the SLDS Governing Board or designee may stop searching for the remaining records and close the request.

- H. Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, SLDS Governing Board will indicate that it has completed a diligent search for the requested records and made any located nonexempt records available for inspection.
- I. 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 required fees, the SLDS Governing Board will close the request and indicate to the requestor that the SLDS Governing Board has closed the request.
- J. Later discovered documents. If, after the SLDS Governing Board has informed the requestor that it has provided all available records, the SLDS Governing Board becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor and data contributors of the additional documents and provide them on an expedited basis.

Source: Miss. Code Ann. §37-154-3

*Rule 10.5 Processing of public records requests for electronic records.* The SLDS Governing Board process for requesting electronic public records is the same as for requesting paper public records. When a requestor requests records in an electronic format, the SLDS Governing Board will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the SLDS Governing Board and is generally commercially available, or in a format that is reasonably translatable from the format in which the SLDS Governing Board keeps the record. The SLDS Governing Board shall determine the cost of providing access to electronic records.

With the consent of the requestor, the SLDS Governing Board may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The SLDS Governing Board may charge the actual cost for such customized access.

Source: Miss. Code Ann. §37-154-3

*Rule 10.6 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 the SLDS Governing Board for inspection and copying. This list is provided for informational purposes only and may not be all-inclusive:

- Academic records exempt from public access, see § 37-11-51.
- Appraisal records exempt from access, see § 31-1-27.
- Archaeological records exempt from public access, see § 39-7-41.
- Attorney work product, examination, exemption, see § 25-1-102.
- Birth Defects Registry, see § 41-21-205.
- Bureau of vital statistics, access to records, see § 41-57-2.
- Charitable organizations, registration information, exemption from public access, see § 79-11-527.
- Concealed pistols or revolvers, licenses to carry, records, exemption, see § 45-9-101.
- Confidentiality, ambulatory surgical facilities, see § 41-75-19.
- Defendants likely to flee or physically harm themselves or others, see § 41- 32-7.
- Environmental self-evaluation reports, public records act, exemption, see § 49-2-71.
- Hospital records, Mississippi Public Records Act exemption, see § 41-9-68.
- Individual tax records in possession of public body, exemption from public access requirements, see § 27-3-77.
- Insurance and insurance companies, risk based capital level requirements, reports, see § 83-5-415.
- Judicial records, public access, exemption, see § 9-1-38.
- Jury records exempt from public records provisions, see § 13-5-97.
- Licensure application and examination records exemption from Public Records Act, see § 73-52-1.
- Medical examiner, records and reports, see § 41-61-63.
- Personnel files exempt from examination, see § 25-1-100.
- Public records and trade secrets, proprietary commercial and financial information, exemption from public access, see § 79-23-1.
- Workers' compensation, access to records, see § 71-3-66.
- Records subject to privilege, such as Attorney/Client, Physician/Patient, etc.

SLDS Governing Board will describe why each withheld record or redacted portion of a record is exempt from disclosure.

Source: Miss. Code Ann. §37-154-3

*Rule 10.7 Third party information.* Upon request to inspect or copy any third party document, the SLDS Governing Board shall notify the third party who filed the document. Seven (7) working days after such notice, the document will be made available for public inspection and/or copying unless the third party shall have either (i) obtained a court order protecting such records as confidential pursuant to Section 25-61-9, Miss. Code of 1972 or (ii) furnished the SLDS Governing Board a copy of the filed petition for a protective court order, providing the petition was timely filed upon the third party's receipt of notification from the SLDS Governing Board regarding the request for information.

The third party must prove to the court's satisfaction that the record or portion of the records is exempt from disclosure and must deliver the court order preventing the release of all or part of the information to the SLDS Governing Board prior to the deadline to prevent disclosure of the information. The third party must name the requestor as a party to any action to enjoin disclosure.

The SLDS Governing Board will not make a determination as to whether a requested record provided by a third party contains trade secrets or confidential commercial or financial information. The SLDS Governing Board will provide the third party notice as outlined above and allow the court to determine if a protective order should be issued.

Documents are frequently produced by the SLDS Governing Board that contain specific information directly obtained from a third party and, as such, may be subject to third party notice as described above.

Source: Miss. Code Ann. §37-154-3

*Rule 10.8 Costs for fulfilling a request.* Costs of providing public records shall be determined in accordance with Miss. Code Ann. §25-61-7(1) that reads as follows: "Except as provided in subsection (2) of this section, each public body may establish and collect fees reasonably calculated to reimburse it for, and in no case to exceed, the actual cost of searching, reviewing and/or duplicating and, if applicable, mailing copies of public records."

- A. A requestor may obtain standard black and white photocopies for 15 cents per page and color copies for 15 cents per page. Copy charges for some specific types of records are set by statute and may exceed the amount stated above. Before copies can be made and/or provided to the requestor, the requestor must pre-pay all reasonably estimated costs of copying all the records selected by the requestor. The SLDS Governing Board may also require the payment of the remainder of the copying costs before providing all the records in an installment before providing that installment. The SLDS Governing Board 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 specified as the media cost for a CD. The cost of scanning existing SLDS Governing Board paper or other non-electronic records will be calculated at the

hourly service rate. 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.

- C. Costs of mailing. The SLDS Governing Board may also charge actual costs of mailing, including the cost of the shipping container.
- D. Payment. Payment may be made by cash, check, or money order to the SLDS Governing Board for the amount specified.
- 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 service rate multiplied by the actual time to complete the task.

Source: Miss. Code Ann. §37-154-3

*Rule 10.9 Review by Ethics Commission.* Pursuant to Section 25-61-13, if the SLDS Governing Board denies a requestor access to public records, the requestor may ask the Ethics Commission to review the matter. The Ethics Commission has adopted rules on such requests. They may be found at [www.ethics.state.ms.us](http://www.ethics.state.ms.us).

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

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 11: RULEMAKING ORAL PROCEEDINGS**

*Rule 11.1 Rulemaking oral proceedings.* These rules apply 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 for the SLDS Governing Board.

When a political subdivision, an agency, or ten (10) persons request 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 Chair of the SLDS Governing Board 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.

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 SLDS Governing Board shall provide notice of oral proceedings to all persons requesting notification of proposed rule adoptions. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Chair of the SLDS Governing Board or designee who is familiar with the substance of the proposed rule shall preside at the oral proceeding on a proposed rule.

Public participation shall be permitted at oral proceedings, as follows:

- 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 Chair of the SLDS Governing Board at least three (3) 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 SLDS Governing Board 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 when necessary 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 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.

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 SLDS Governing Board, part of the rulemaking record, and are subject to the SLDS Governing Board

public records request procedure. The SLDS Governing Board may record oral proceedings by stenographic or electronic means.

Source: Miss. Code Ann. §37-154-3

## **Part 501 Chapter 12: DECLARATORY OPINIONS**

*Introduction.* These rules and regulations govern the form, content, and filing of requests for declaratory opinion, the procedural rights of persons in relation to the written requests, and the SLDS Governing Board's procedures regarding the disposition of requests as required by Miss. Code Ann. §25-43-2.103.

*Rule 12.1 Declaratory Opinions.* The SLDS Governing Board will issue declaratory opinions regarding the applicability to specified facts of:

- A. A statute administered or enforceable by the SLDS Governing Board;
- B. A rule or regulation promulgated by the SLDS Governing Board; or,
- C. An order issued by the SLDS Governing Board.

A request must be limited to a single transaction or occurrence.

When a person with substantial interest, as required by Miss. Code Annotated §25-43-2.103, requests a declaratory opinion, 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 Chair of the SLDS Governing Board 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.
- E. Each request must clearly state that it is a request for a declaratory opinion.

Any party who signs the request shall attest that the request complies 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 agency, administrative, or judicial tribunal.

Each request must contain the following:

- A. A clear identification of the statute, rule, regulation, or order at issue;
- B. The question for the declaratory opinion;
- C. A clear and concise statement of all facts relevant to the question presented;
- D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and,
- E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

The SLDS Governing Board 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:

- A. The matter is outside the primary jurisdiction of the SLDS Governing Board;
- B. There is a lack of clarity concerning the question presented;
- C. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- D. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
- E. The facts presented in the request are not sufficient to answer the question presented;
- F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
- G. 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 rule, statute, or order on which a declaratory opinion is sought;
- H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
- I. The question presented by the request concerns the legal validity of a statute, rule, or order;

- J. 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;
- K. No clear answer is determinable;
- L. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
- M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
- N. The question is currently the subject of an Attorney General's opinion request;
- O. The question has been answered by an Attorney General's opinion;
- P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
- Q. A similar request is pending before this agency, or 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; or,
- R. The question involves eligibility for a license, permit, certificate, or other approval by the SLDS Governing Board or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the SLDS Governing Board shall, in writing:

- A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
- B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or,
- C. Decline to issue a declaratory opinion, stating the reasons for its action.

The forty-five (45) day period shall begin on the first business day after which the request is received by the SLDS Governing Board.

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinion and requests shall be indexed by name, subject, and date of issue. 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. §37-154-3

### **Part 501 Chapter 13: REVIEW AND AUDIT**

*Rule 13.1 Review and Audit.* These rules and regulations shall be subject to review by an SLDS Governing Board committee on annual basis as set forth by the SLDS Governing Board Chair. The SLDS Governing Board committee shall prepare a report including recommendations for any actions to be considered by the convened governing board.

Source: Miss. Code Ann. §37-154-3