Title 1: Secretary of State

Part 2: Organization and Executive Policies and Procedures

Part 2 Chapter 1: Organization of the Secretary of State's Office

Rule 1.1 Repeal of Prior Rules. Upon their effective date, these rules and regulations supersede and repeal all previous rules and regulations promulgated under the Administrative Procedures Act and adopted as Title 01 – Administrative Law and Secretary of State Part III Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 1.2 Chapter Content. In accordance with Section 25-43-2.104(a) of the Mississippi Administrative Procedures Act, this chapter describes the Secretary of State's duties and responsibilities, the organization of the Secretary of State's Office, its methods of operation, and how the public can contact the agency to make submissions or requests.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 1.3 Secretary of State Duties. The Secretary of State is an officer of the executive branch of state government elected by the people pursuant to Article 5, Section 133 of the Mississippi Constitution. The Secretary of State is the keeper of the Capitol, registrar of all official acts of the Governor and performs other duties as required by various statutes. There are specific statutory duties in the following general areas: elections, public lands, business, charities, securities, and publications.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 1.4 Secretary of State's Office Organization. The Secretary of State's Office consists of Assistant Secretaries of State and other staff who assist the Secretary in carrying out the responsibilities of the Office. The Secretary of State's Office is divided into the following operating divisions:

A. Administration
    1. Personnel
    2. Finance
    3. Procurement
    4. Information Technology
B. Business Services
    1. Corporate Filings and Customer Service
        a. Business Entity Formation
        b. Uniform Commercial Code Filing
        c. Notary Commissions
        d. Customer Service
        e. Trademarks
C. Policy and Research

D. Regulation and Enforcement
   1. Administrative Procedures Act Regulation
   2. Pre-need Funeral Service and Merchandise Registration Act Regulation
   3. Scrap Metal Dealer Regulation
   4. Perpetual Care Cemeteries Regulation
   5. Athlete Agent Regulation
E. Securities
   1. Securities Regulation
F. Charities
   1. Charities Regulation
G. Education and Publications
   1. Education and Marketing
   2. Publications
H. Elections
   1. Election Administration
      a. Campaign Finance
      b. Lobbying
      c. Elections Compliance
         1. Candidate Qualification
         2. Certified Results
   2. HAVA Compliance
      a. Statewide Elections Management
      b. Voting Systems
I. Public Lands
   1. Agency Lands
   2. Tax Forfeited Lands
   3. Sixteenth Section Lands
   4. Public Trust Tidelands

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 1.5 Delegation of Authority. Authority to act on behalf of the Secretary of State is delegated to the following positions:

A. Chief of Staff serves as the Deputy Secretary of State and is delegated authority to act for the Secretary on all matters.
B. Assistant Secretaries of State are delegated authority to act for the Secretary of State on all matters within their assigned area of responsibility.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 1.6 Contact Information. A current listing of contact information for The Secretary of State's Office may be found at www.sos.ms.gov or obtained by calling (601) 359-1350.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Part 2 Chapter 2: Rulemaking Oral Proceedings

Rule 2.1 Application of Chapter. This chapter applies to all oral proceedings held for the purpose of providing the public an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the Secretary of State's Office pursuant to the Administrative Procedures Act.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 2.2 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. Pursuant to Miss. Code Ann. Section 25-43-3.104, when an oral proceeding has not been scheduled by the Secretary of State's Office, an oral proceeding will be scheduled when a written request is submitted by a political subdivision, an agency, or ten (10) or more persons.

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 Secretary of State 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: *Miss. Code Ann.* § 25-43-2.104 and -3.104 (Rev. 2006).

Rule 2.3 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, Regulation and Enforcement Division for publication in the Administrative Bulletin. The Secretary of State 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 Secretary of State, Assistant Secretary of State, or 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.* § 25-43-2.104 (Rev. 2006).

Rule 2.4 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.
B. Persons wishing to make oral presentations at such a proceeding shall notify the Secretary of State's Office 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 Secretary of State's Office 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, 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: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 2.5 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 Secretary of State, part of the rulemaking record, and are subject to the Secretary of State's public records request procedure. The Secretary of State's Office may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Part 2 Chapter 3: Declaratory Opinions

Rule 3.1 Application of Chapter. This chapter sets forth the Secretary of State's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the Secretary of State's procedures regarding the disposition of requests as required by Mississippi Code § 25-43-2.103.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.2 Scope of Declaratory Opinions. The Secretary of State will issue declaratory opinions regarding the applicability to specified facts of:

A. a statute administered or enforceable by the Secretary of State,
B. a rule promulgated by the Secretary of State, or
C. an order issued by the Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.3 Scope of Declaratory Opinion Request. A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.4 How to Submit Requests. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the person 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 Secretary of State or in the form of a pleading as if filed with a court. It must also specify to which division of the Secretary of State's Office the request is addressed.
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.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.5 Signature Attestation. 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.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.6 Request Content Requirement. Each request must contain the following:

A. A clear identification of the statute, rule, 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.
E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.7 Reasons for Refusal of Declaratory Opinion Request. The Secretary of State 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:

A. The matter is outside the primary jurisdiction of the Secretary of State;
B. 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 Secretary of State 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.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.8 Agency Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Secretary of State 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 on or after which the request is received by the Secretary of State.

Source: *Miss. Code Ann.* § 25-43-2.104 (Rev. 2006).

Rule 3.9 Availability of Declaratory Opinions and Requests for Opinions. 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 opinions and requests shall be indexed by requestor 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.* § 25-43-2.104 (Rev. 2006).

Part 2 Chapter 4: Public Records Procedure: In compliance with the Mississippi Public Records Act of 1983, Miss. Code Ann. § 25-61-1.

Rule 4.1 Scope. This rule establishes procedures and fees associated with all public requests for copies and/or inspection of public documents.

A. **Submission of Requests.**

1. All requests for information should be submitted in writing to:

Office of the Mississippi Secretary of State
c/o Director of Communications
125 S. Congress Street
Jackson, MS 39201

2. Requests may be mailed, hand delivered, or transmitted via facsimile at (601) 359-6700.
3. No verbal or telephone requests can be accepted.
4. The request should specifically outline the records that are being requested.

B. **Timetable for processing.** All document requests will be approved or denied within seven (7) business days after the request is received. In the event of a denial for all or part of the request, the Office of the Secretary of State will provide an explanation of the denial to the requestor in writing. If the requested information is unable to be produced by the seventh day after the request is made, the Secretary of State's Office will provide a written explanation regarding why the document cannot be produced during that timeframe. Unless there is a mutual agreement of the parties, in no case shall the production of the requested records, after timely payment and unless otherwise exempt, be any later than fourteen (14) working days from the receipt of the request.

C. **Exempt Documents.** Some documents are exempt from publication such as personnel records, attorney communications and work products of attorneys.

D. **Third Party Information.** Records furnished to the Office of the Secretary of State by third parties which contain trade secrets or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction until the third party has been advised that the documents will be released. Further, no third party information will be released if a third party obtains a court order prohibiting the same. The requestor will be notified of any court orders that prohibit the release of the requested information.

E. **Assessment of costs to the Requestor.** Payment for information requested must be made in advance receipt of documents and must be sufficient to cover the actual costs for the Office of the Secretary of State to furnish the information. Such costs include, but are not limited to, staff time to evaluate and request, to retrieve any relevant files, to organize the information, to notify any Third Parties, to develop a cost estimate and schedule, to reproduce the material, and to the deliver the information requested.

1. **No cash, credit or debit cards, or personal checks can be accepted.** Money orders, certified checks, or corporate checks are accepted.

2. The Office of the Secretary of State will notify the requestor of the costs to obtain the information prior to processing the request, in accordance with Paragraph 2 of this Rule. Timely payment under paragraph 2 means payment received by the next business day after the cost notification is provided to the requestor. By delaying the payment of the estimated fee

past the next business day, the requestor acknowledges there may be a delay in the delivery of the requested documents. No request will be processed until payment is received. The decision to charge for public records is at the discretion of the Office of the Secretary of State.

F. **Requests for Standard Documents.** The Office of the Secretary of State has established a Schedule of Standard Documents and Fees for frequently requested information. The list of these documents and associated costs is listed in the table that follows. Should a requestor require a paper copy of these documents, he/she must initiate a request as described in this document and submit the fee listed on the Schedule of Standard Documents.

G. **Requests for Special Documents.** Upon receipt of a request not included on the Schedule of Standard Documents and Fees, the staff of the Office of the Secretary of State will evaluate the request, research the files and other sources to determine the availability and format in which the information is stored, and estimate the "actual costs" to furnish the requested information.

1. An estimated cost will be provided to the requestor based on the volume of information, the format in which the information is stored and requested, and whether or not third party information has been requested. The requestor may submit payment for processing of the request, amend the request, and/or withdraw the request. The requestor should submit written notice of his/her intent to either proceed or withdraw the request.

2. If no response is given by the requestor within (30) thirty days, the Office of the Secretary of State will proceed no further with the request. If at a later date, the requestor decides to proceed with the request, he/she should submit a new request.

H. **Requests for Document Inspections.** The requestor will be billed for the total amount of time expended by employees of the Office of the Secretary of State assisting with the inspection of documents. Additional fees incident to document production may be assessed.

I. **Public Information via the Internet.** Some information pertaining to the Office of the Secretary of State is available free of charge on the internet at www.sos.ms.gov.

Source: *Miss. Code Ann.* § 25-61-1 (Rev. 2010).

Part 2 Chapter 5: General Fees

Rule 5.1General Fees.

Copies	
8 ½ by 11	$0.25 per page
8 ½ by 14	$0.60 per page
11 x 17	$1.20 per page
18 x 24 or larger	$2.00 per page
Plats & field notes (8 ½ by 11)	$0.50 per page
(for larger plats & field notes see copy pricing above)	
Copies made by outside vendor	actual cost
Certified Mail	actual cost
Document Retrieval (offsite)	$3.00
Certified Document	$2.00
Certificate of Authenticity	$2.00
Search and/or Research	$50 hr per attorney $25 hr per staff
Shipping (including express shipping)	actual cost
Fax	$5.00 plus copying cost
Returned Check	$40.00

Source: *Miss. Code Ann.* § 25-61-7 (Rev. 2010).

Rule 5.2 Repeal of previous rules and regulations.

A. Fees relating to land transactions are defined in MS Code 25-7-85.

B. All previously promulgated rules or regulations which are inconsistent with any provisions set forth above are hereby repealed.

C. Conflicts between this regulation and existing statutes related to access to Agency records and fees charged by individual work areas of the Agency shall be resolved in favor of the existing statute.

Source: *Miss. Code Ann.* § 25-61-7 (Rev. 2010).