

**YAZOO MISSISSIPPI DELTA JOINT WATER MANAGEMENT DISTRICT
GENERAL ADMINISTRATIVE RULES**

Adoption Date: September 30, 2019

Effective Date: October 31, 2019

Title 33: Rivers and Waters

Part 501: General Administrative Rules of the Yazoo Mississippi Delta Joint Water Management District

Introduction. These rules and procedures are adopted and promulgated by the Board of Commissioners of the Yazoo Mississippi Delta Joint Water Management District pursuant to the authority granted by and in conformity with the provisions of Section 51-8-27, Mississippi Code of 1972, as amended, and as required by Section 25-43-2.103 and Section 25-43-2.104, Mississippi Code of 1972, as amended.

Further, these rules and procedures are adopted and promulgated by the Board of Commissioners of the Yazoo Mississippi Delta Joint Water Management District pursuant to the powers vested in it by Section 51-8-29, Mississippi Code of 1972, as amended, including those powers “necessary and requisite for the accomplishment of the purpose for which such district is created” and the empowerment “to do all acts necessary, proper or convenient in the exercise of the powers granted under such sections” of Title 51, Chapter 8 of the Mississippi Code of 1972.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103; Miss. Code Ann. §25-43-2.104; Miss. Code Ann. §51-8-29*

Part 501 Chapter 1: Organization and Method of Operation of the District

Rule 1.1 Board of Commissioners. The Yazoo Mississippi Delta Joint Water Management District is an agency of the State of Mississippi created pursuant to the Joint Water Management Districts Law, Title 51, Chapter 8 of the Mississippi Code of 1972, as amended. The District is composed of seventeen member counties: Bolivar, Carroll, Coahoma, DeSoto, Holmes, Humphreys, Issaquena, Leflore, Panola, Quitman, Sharkey, Sunflower, Tallahatchie, Tate, Tunica, Washington, and Yazoo. The District is governed by a Board of Commissioners organized pursuant to the provisions of Section 51-8-21, Mississippi Code of 1972, as amended. The Board of Commissioners is made up of at least one representative from each member county, to be appointed by the Board of Supervisors of each such county; provided each member county shall be entitled to one representative for every \$100,000,000, or fraction thereof in excess of \$100,000,000, in total assessed valuation, based upon such valuation for the immediately preceding tax year.

The District's Board of Commissioners is vested with all powers afforded to it by the provisions of the Joint Water Management Districts Law, Title 51, Chapter 8 of the Mississippi Code of 1972, as amended, and those specific power enumerated in its Charter.

The District employs an Executive Director who is in charge of the routine operation of the business of the District.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 1.2 Purpose and Responsibilities. The District was established pursuant to the purpose provided in Section 51-8-3, Mississippi Code of 1972, as amended. The District was specifically created for the purpose of promoting and maintaining water resources conservation, management, and development; establishing and implementing water supply, water quality, and water utilization plans and programs; sponsoring, acquiring, or construction of devices or measures to insure predictability adequate water supplies for domestic, agricultural, commercial and industrial uses; participating in water resources planning and management programs of appropriate state, federal, and local agencies; financing such measures; and such other functions as from time to time may be necessary or appropriate to implement the policies of the District.

The District does not intend in its inception to perform any function now being performed in the District's geographical area by existing drainage districts, rural water associations or districts, or other similar existing entities created under the laws of the State of Mississippi and the District shall in all events do any and all things necessary to avoid duplication of services, benefits, programs, projects, plans and functions with the state or federal governments, agencies, or departments thereof.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 1.3 Method of Operation. All policy and rulemaking authority of the District is vested in the Board of Commissioners. The Board of Commissioners delegates the routine operations and personnel supervision to the District's Executive Director.

The District conducts its business operations Monday through Friday at its Office located at 384-B Stoneville Road, Stoneville, Mississippi 38776. The District's regular business hours are 8:00 A.M. to 5:00 P.M.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Part 501 Chapter 2: Public Information and Requests

Rule 2.1 Contacting the Yazoo Mississippi Delta Joint Water Management District's Office. The Yazoo Mississippi Delta Joint Water Management District's Office may be

contacted in person, by U.S. Mail, courier mail, email, telephone, and facsimile. The District also maintains and provides a website on the Internet at www.ymd.org.

- (a) The District Office is located at 384-B Stoneville Road, Stoneville, Mississippi 38776.
- (b) The District Office's mailing address is Post Office Box 129, Stoneville, Mississippi 38776.
- (c) Courier mail may be delivered to the physical location listed above in subsection (a).
- (d) The District's Office may be contact be telephone at (662) 686-7712 and by facsimile at (662) 686-9078.
- (e) The primary contact email address for the District's Office may be located on the homepage of its website at www.ymd.org.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 2.2 Requesting Information. The District strives to serve the public by making information regarding its services and operations readily available. Printed information may be obtained from the District's Office. There may be a charge, depending on the nature of the information. The public is also encouraged to visit the District's website at www.ymd.org.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 2.3 Public Records Requests. With regard to public records, it is the policy of the District to provide for inspection and copying of its identifiable public records by all people of the State of Mississippi who request such inspection or copying, consistent with the provisions of the Mississippi Public Records Act, in Sections 25-61-1 through 25-61-19, Mississippi Code of 1972, as amended, and other applicable laws and judicial decisions. The Districts public record request rules and regulations can be found in the rules of Chapter 9 herein.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Part 501 Chapter 3: Administrative Procedures for Informal Appearances before the Board of Commissioners of the District

Rule 3.1 Board of Commissioners Meetings. The District's Board of Commissioners meetings are held on the third Wednesday of each month and begin promptly at 10:00 A.M. in the Board Room of the District's Office. Board of Commissioner meetings are open to the general public and are conducted pursuant to the Mississippi Open Meetings Act and related laws. For further information regarding the Board of Commissioners meetings, please contact the District's Office using the resources provided herein at Part 700, Chapter 2, Rule 2.1.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 3.2 Oral Presentations. Any person wishing to appear before the Board of Commissioners to make an oral presentation may do so by sending his or her request, in writing, to the Board of Commissioners, in care of the District’s Executive Director, at the District’s Office. Requests must be received no later than ten (10) days prior to the Board of Commissioners meeting for the requestor to be considered to be placed on the meeting’s agenda. Requests should state clearly the name, address, telephone number, subject matter to be addressed, and an estimated length of time for the presentation. Any special needs such as audio/visual equipment or other needs should be addressed in the request. Requestors will be notified as soon as possible after the receipt of the request as to whether or not they will be placed on the Board of Commissioners meeting agenda.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 3.3 Comments During Meetings. Persons attending a Board of Commissioners meeting who may wish to comment on a topic appearing on the agenda for that meeting may request to be recognized during the “Public Comment” portion of the meeting. Such requests must be made to the Board of Commissioners Chairman, immediately prior to the meeting. Such requests will only be granted if time allows. Groups of persons with similar interests or opinions that they wish to express to the Board of Commissioners are urged to put forward one spokesperson for the group.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Part 501 Chapter 4: Administrative Procedures for Formal Hearings on and Review of District Rules and Regulations

Rule 4.1 Purpose and Scope of Rules. The following rules shall control public hearings and hearings within the jurisdiction of the District, required by the Mississippi Administrative Procedures Law. This chapter applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the District pursuant to the Administrative Procedures Law. These rules do not apply to actions not subject to the Administrative Procedures Law.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 4.2 Request for an Oral Proceeding. When a political subdivision, an agency, or a person requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request that adheres to the following requirements:

- (a) Each request must be submitted on 8.5” x 11” white paper.

- (b) The request may be in the form of a letter addressed to the District or in the form of a pleading as if filed with a court.
- (c) Each request must include the full name, telephone number, and mailing address of the requestor.
- (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.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 4.3 Notice of Oral Proceeding. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The District 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 Chairman of the Board of Commissioners, or a designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 4.4 Written Comments. Written comments on proposed rules and regulations are encouraged and they may be submitted to the District's Executive Director or to the individual designated in the Administrative Procedures Act filing notice as the person to contact. If public oral proceedings are conducted, written comments must be submitted no later than three (3) days before such proceeding in order to be considered during the hearing. Written comments presented at the oral proceeding will be included as part of the record of the oral proceeding.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 4.5 Public Participation Guidelines. Public participation shall be permitted at oral proceedings in accordance with the following:

- (a) At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
- (b) Persons wishing to make oral presentations at such a proceeding shall notify the District at least five (5) 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 District 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. Each group or organization should nominate only one person to make the presentation unless the presiding officer determines that the group or organization cannot reasonably be represented by a single spokesperson.

- (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.
- (g) 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 partisan's time where the orderly conduct of the proceeding so requires or when the allotted time has expired.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 4.6 Conducting Oral Proceedings. The presiding officer shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. 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, and the reasons provided by the District for the proposed rule; (iii) call on those individuals who have contacted the District about speaking on or against the proposed rule; (iv) allow for rebuttal statements following all participant's comments; (v) adjourn the proceeding.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 4.7 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 District, part of the rulemaking record, and are subject to the District's public records request procedure. The District may record oral proceedings by stenographic or electronic means.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Part 501 Chapter 5: Requests for Declaratory Opinions

Introduction. These rules provided in Chapters 5, 6, and 7 set forth the District's rules governing the form and content of requests for declaratory opinions, and the District's procedures regarding

the requests, as required by Mississippi Code § 25-43-2.103. These sections do not apply to actions of the District not subject to the Administrative Procedures Act.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 5.1 Who May Request a Declaratory Opinion. Any person with a substantial interest in the subject matter may request the District for a declaratory opinion by following the specified procedures.

- (a) “Substantial interest in the subject matter” as used in this chapter means a party is directly affected by the District's administration of the laws within the District's primary jurisdiction.
- (b) “Primary jurisdiction of the District” as used in this chapter means the District has a constitutional or statutory grant of authority in the subject matter at issue.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 5.2 Issuance of a Declaratory Opinion. The District will issue declaratory opinions regarding the applicability to specified facts of:

- (a) a statute administered or enforceable by the District,
- (b) a rule promulgated by the District, or
- (c) an order issued by the District.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 5.3 Reasons for Refusal of Declaratory Opinion Request. The District may, for good cause, refuse to issue a declaratory opinion. Without limiting the generality of the foregoing, 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 District;
- (b) lack of clarity concerning the question presented;
- (c) 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;
- (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 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 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; or,
- (o) the question has been answered by an Attorney General's opinion.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 5.4 Similar Pending Request. A declaratory opinion will not be issued where 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.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 5.5 Litigation. A declaratory opinion will not be issued if it may adversely affect the interests of the State, the District, or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 5.6 Question of Law. Where a request for a declaratory opinion involves a question of law, the District may refer the matter to the State Attorney General.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 5.7 Preemptive Determination. A declaratory opinion will not be issued where the question involves eligibility for a license, permit, certificate or other approval by the District 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.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Part 501 Chapter 6: Written Requests Required

Rule 6.1 Written Request. Each request must be printed, typewritten or in legible handwriting. Each request must be submitted on standard business letter size paper (8 1/2" by 11"). Requests may be in the form of a letter addressed to the District or in the form of a pleading as might be addressed to a court. Information should be sent to the attention of the Executive Director.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.2 Mailing of Request. All requests must be mailed or delivered to the District. The request and its envelope shall clearly state that it is a request for a declaratory opinion. Oral and telephone requests are unacceptable.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.3 Certification of Request. 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, unless represented by an attorney, in which case the attorney may sign the request. The signing party 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.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.4 Limit of Request. A request must be limited to a single transaction or occurrence.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.5 Requirements of Request. Each request must contain the following:

- (a) a clear identification of the statute or rule 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 identify of all other known persons involved in or impacted by the factual situation causing the request including their relationship to the facts, name, mailing address and telephone number; and,
- (e) a statement sufficient to show that the person seeking relief has a substantial interest in the subject matter.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.6 Form and Content of Opinion. The terms of the proposed opinion suggested by the requestor may be submitted with the request, but the form and content of the opinion remains within the discretion of the District.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.7 Argument. A request may contain an argument by the requestor in support of the terms of the proposed opinion suggested by the requestor. The argument may be submitted in the form of a memorandum of authorities, containing a full discussion of the reasons and any legal authorities, in support of such position of the requestor. The District may request that the argument and memorandum of authorities be submitted by any interested party.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.8 District's Actions. Within forty-five (45) days after the receipt of a complete request for a declaratory opinion which complies with the requirements of these rules, the District shall, in writing:

- (a) issue an opinion declaring the applicability of the specified statute, rule, or order to the specified circumstances;
- (b) agree to issue a declaratory opinion or a written statement 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.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.9 45-Day Period. The forty-five (45) day period shall begin on the first State of Mississippi business day that the request is received by the District.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.10 60-Day Holding Period. 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 sixty (60) days, the District 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 or was based on a legal or factual error.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.11 Notice to Third Parties. The District may give notice to any person that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from persons other than the requestor.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 6.12 Schedule of Interested Persons. The requestor, or his attorney, shall append to the request for a declaratory opinion a listing of all persons, with addresses, known to the requestor who may have an interest in the declaratory opinion sought to be issued, and shall mail a copy of the request to all such persons. The requestor or his attorney shall certify that a copy of the request was mailed to all such persons together with this statement: "Should you wish to participate in the proceedings of this request, or receive notice of such proceedings or the declaratory opinion issued as a result of this request, you should contact the District within twenty days of the date of this request."

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Part 501 Chapter 7: Hearings Optional

Rule 7.1 Scheduling a Hearing. If the District, in its sole discretion, deems a hearing necessary or helpful in determining any issue concerning a request for a declaratory opinion, the District may schedule such a hearing. Notice of the hearing shall be given to all interested parties unless waived. Notice mailed by first class mail seven (7) calendar days prior to the hearing shall be deemed appropriate.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 7.2 Procedure for Conducting a Hearing. Procedure for conducting a hearing, including but not limited to the manner of presentation, the time for presentation, and whether and how evidence may be taken, shall be within the discretion of the District.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 7.3 Participation in a Hearing. The District shall allow the requestor to participate in any hearing. The District may allow any other persons or entities to participate in the hearing in its discretion. Submission of a request for a declaratory opinion or for a hearing does not automatically entitle the requestor to a hearing.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Rule 7.4 Inspection. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the District's public records rules and regulations. 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.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.103(2)*

Part 501 Chapter 8: Procedures for Conducting Evidentiary Hearings

Rule 8.1 Requesting an Evidentiary Hearing. The following procedures in this Chapter 8 shall govern formal hearings and requests for reconsideration. Any person, firm or corporation that has been aggrieved by a final decision of the District and its Board of Commissioners may request an evidentiary hearing within fourteen (14) days from the date of the Board action. The District can order and require an evidentiary hearing on any matter within its jurisdiction.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 8.2 Setting the Hearing. The District shall fix the time and place of such hearing and shall notify all parties thereto by certified mail. Individuals coming before the District may appear personally, by counsel, or both, produce witnesses and cross-examine witnesses. The Chairman of the Board of Commissioners, or his or her designee, shall act as the presiding officer.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 8.3 Witnesses. The District is not authorized to issue subpoenas. Parties to an evidentiary hearing are responsible for assuring the attendance of their witnesses.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Rule 8.4 Pre-filing Testimony and Documents.

- (a) Direct testimony of each witness to be relied upon during the hearing shall be pre-filed with the District and copies of the same shall be mailed to all parties seven (7) days prior to the hearing, except that in the discretion of the District this requirement may be modified or waived. Parties which call “adverse” witnesses shall not be required to submit pre-filed testimony as contemplated in this paragraph. At least seven (7) days prior to the hearing, all parties involved shall exchange copies of all exhibits that will be introduced during the hearing indicating the party offering and the witness who will sponsor each. The presiding officer may permit an exception to these requirements when witnesses or exhibits are necessary for rebuttal or impeachment. Failure to submit the above referenced exhibits and the pre-filed testimony of witnesses and exhibits may result in the exclusion of same from the hearing. Also, the presiding officer, in his or her

discretion, may call a pre-hearing conference prior to any hearing to establish hearing guidelines and clarify issues.

- (b) Should the District waive the above mentioned requirement for pre-filed testimony, then at least seven (7) days before the hearing, all parties involved shall exchange a list of all witnesses each will call during the hearing, a brief statement of the testimony expected from each witness, and copies of all exhibits.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(b)*

Part 501 Chapter 9: Inspection and Copying of Public Records Pursuant to the State Public Records Act

Rule 9.1 Policy. It is the policy of the District to provide for inspection and copying of its identifiable public records by all people of the State of Mississippi who request such inspection or copying, consistent with the provisions of the Mississippi Public Records Act, Section 25-61-1 through 25-61-19, Mississippi Code of 1972, as amended, and other applicable laws and judicial decisions.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 9.2 Definitions.

- (a) Identifiable Public Record: A public record is identifiable if a reasonably specific description of the record, such as the date, the subject matter and persons involved, or other identifier that will permit location or retrieval of the record, is given in the request for production. Identification of leases or assignments of leases require a subdivision name and lot number.
- (b) Working Day: A working day is any day other than a weekend, state holiday, federal holiday, or other day on which by executive order the District is authorized to be closed.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 9.3 Procedure.

- (a) Records Available: All identifiable public records of the District not exempt pursuant to §25-61-9 and §25-61-11 of the Public Records Act or other applicable law or judicial decision are available for inspection or copying, or both, pursuant to the procedures herein.
- (b) Request in Writing: All requests shall be in writing, shall request the production or copying of identifiable public records, shall be signed by the person or persons requesting the records, and shall list the requester's address and telephone number.
- (c) District Response: Within three (3) working days after the date of the receipt of the request, the District shall notify the requesting party whether the record(s) requested can

be located and whether the record(s) can be legally disclosed. If the record is to be disclosed, the District shall give an estimate of the total fee for compliance with the request. Upon payment of the fee, the District shall produce the record(s) requested for inspection or copying no later than seven (7) working days from the date of the request, but in no event shall production of the record(s) be later than fourteen (14) working days from the date of request for the production of the records.

- (d) Denials: Any denial of a request shall be in writing signed by the District's Executive Director and shall contain a statement of the specific exemption relied upon for the denial.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 9.4 Confidentiality Notice.

- (a) Notice of Request: For the purpose of providing notice of a request for inspection, examination, copying or reproduction to a third party that has submitted trade secrets or confidential commercial or financial information, pursuant to §25-61-9 of the Public Records Act, twenty-five (25) days from the mailing of written notice to the third party shall be deemed a reasonable period after which the requested identifiable public record(s) shall be released, unless otherwise exempt from the Public Records Act. Notice to the third party of such request shall be made by the District within three (3) working days from the date of the request for production.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 9.5 Fees.

- (a) Costs: A fee reasonably calculated to reimburse the District the actual cost of searching, reviewing, reproducing, and transmitting copies of public records shall be paid in advance of complying with a request, as follows:
- (i) Basic search, review, and reproduction charge: \$10.00 minimum search fee plus \$.50 per page. Search, review, and reproduction must be performed at District offices during a workday, and must be performed by District personnel. Search, review, and reproduction fee includes transmittal by U.S. first class mail.
 - (ii) Certification of authenticity: \$5.00 for each certificate.
 - (iii) Records delivered via FAX: additional charge per transmission of \$1.00 per page.
 - (iv) Records delivered by overnight delivery: additional charge of \$25.00 per delivery. This charge will be waived for customers who provide an account number for direct billing through Federal Express.
 - (v) Additional charge of \$5.00 per item for documents retrieved from off-site storage.

- (vi) Database printout requests from available databases will be charged a fee calculated on a per-request basis, depending on the volume and complexity of information requested, but not less than \$.50 per page.
 - (vii) For extensive searches and reproduction of records, the Executive Director may allow the person making the request to perform a search and reproduction on District premises in lieu of these tasks being performed by staff of the District, provided it is done in a non-disruptive manner.
- (b) Search: There shall be a minimum search charge of \$10.00 if the record requested is not found, or if it is determined to be exempt from public disclosure. An additional charge of \$30.00 per request shall be made for staff hours spent in resolving any legal or policy questions concerning the request, but no other charge for staff time shall be made.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 9.6 Expedited Requests. Expedited requests for services in emergency situations that cannot wait for scheduled handling will be charged an additional handling fee of \$20.00.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 9.7 Method of Payment. Fees and charges shall be paid by check or money order made payable to the District or by Visa or MasterCard credit or debit cards. A charge of \$40.00 per item will be assessed for checks returned for insufficiency.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*

Rule 9.8 Repeal of Previous Rules and Regulations.

- (a) All previously promulgated rules or regulations that are inconsistent with any provisions set forth above are hereby repealed.
- (b) Conflicts between this regulation and existing statutes or statutes hereinafter made relating to access to public District records and fees charged shall be resolved in favor of the statute as then in effect.

Sources: *Miss. Code Ann. §51-8-27; Miss. Code Ann. §25-43-2.104(a)*