OPEN MEETINGS: 
After 40 years, why can’t we “get it”?

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INTRODUCTION. The convergence of Mississippi’s Open Meeting Act, Mississippi Code Ann. § 25-41-1 et seq. (1972) (as amended 1975) and a Board’s authorization to engage in an executive session create a panoply of questions and conflicts. In order to resolve the conflicts with some type of clarity, we will consider the scope of statutes which attempt to create transparency in government, an understanding of Mississippi’s statutes specifically, and consider the manner in which the Mississippi appellate courts have interpreted these statutes. We will then consider commentary from the Mississippi Ethics Commission, an institution well versed in Mississippi local government interaction with the Open Meetings Act and the application of the executive session exception to the Open Meetings Act. Finally, we will establish a paradigm for successfully invoking an executive session.

SCOPE. We start with the scope of statutes which attempt to create transparency in government. Chief among these in Mississippi is the Open Meetings Act. The Mississippi Supreme Court has stated on numerous occasions that the “philosophy of the Open Meetings Act is that all deliberations, decisions and business of all governmental boards and commissions, unless specifically excluded by statute, shall be open to the public.” Hinds County Board of Supervisors, et al. v. Common Cause of Mississippi, et al., 551 So. 2d 107, 109 (Miss. 1989). In Mayor & Aldermen of Vicksburg v. Vicksburg Printing & Pub., 434 So. 2d 1333, 1336 (Miss. 1983) the Court established the philosophical framework for the Act by pronouncement: “Openness in government is the public policy of this state. It is conducive to good government, and heroic deeds. *** However inconvenient openness may be to some, it is the legislatively decreed public policy of this state.” In the same decision, the Court noted that the Act is to be construed liberally in favor of the public.
COURTS & ETHICS OPINIONS.  *Vicksburg*, supra, is, in many ways the hallmark case on the transparency in Mississippi government.  *Vicksburg*, supra, goes on to say: “Every member of every public board and commission in this state should always bear in mind that the spirit of the Act is that a citizen spectator, including any representative of the press, has just as much right to attend the meeting and see and hear everything that is going on as has any member of the board or commission.”  See also, *Hinds County*, supra, at 110.

That being said, there are legally acknowledged issues, the discussion of which *may* (not *must*, *may*) be undertaken in executive session.  Section 25-41-7, a portion of the Open Meetings Act, establishes the manner in which a board may engage in an executive session and the specific reasons that may justify an executive session.  Absent an appropriately entered executive session, absent the minutes reflecting any actions taken by the board, and/or absent a reason established in Section 25-41-7 (4) -- any or all of the three (3) will make the action taken ineffective.

§ 25-41-7.  Executive Sessions.
(1) Any public body may enter into executive session for the transaction of public business; provided, however, all meetings of any such public body shall commence as an open meeting, and an affirmative vote of the three-fifths (3/5) of all members present shall be required to declare an executive session.

(2) The procedure to be followed by any public body in declaring an executive session shall be as follows: Any members shall have the right to request by motion a closed determination upon the issue of whether or not to declare an executive session.  Such motion, by majority vote, shall require the meeting to be closed for a preliminary determination of the necessity for executive session.  No other business shall be transacted until the discussion of the nature of the matter requiring executive session has been completed and a vote, as required in subsection (1) hereof, has been taken on the issue.

(3) An executive session shall be limited to matters allowed to be exempted from open meetings by subsection (4) of this section.  The reason for holding such an executive session shall be stated in an open meeting, and the reason so stated shall be recorded in the minutes of the meeting.  *Nothing in this section shall be construed to require that any meeting be closed to the public, nor shall any executive session be used to circumvent or to defeat the purposes of this chapter.* (emphasis supplied)

(4) A public body may hold an executive session pursuant to this section for one or more of the following reasons:
(a) Transaction of business and discussion of personnel matters or the character, professional competence, or physical or mental health of a person.

(b) Strategy sessions or negotiations with respect to prospective litigation, litigation or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body.

(c) Transaction of business and discussion regarding the report, development or course of action regarding security personnel, plans or devices.

(d) Investigative proceedings by an (sic) public body regarding allegations of misconduct or violation of law.

(e) Any body or (sic) the Legislature which is meeting on matters on matters within the jurisdiction of such body.

(f) Cases of extraordinary emergency which would pose immediate or irrevocable harm or damage to person and/or property within the jurisdiction of such public body.

(g) Transaction of business and discussion regarding the prospective purchase, sale or leasing of lands.

(h) Discussions between a school board and individual students who attend a school within the jurisdiction of such school board or the parents or teachers of such students regarding problems of such students or their parents or teachers.

(i) Transaction of business and discussion concerning the preparation of tests for admission to practice in recognized professions.

(j) Transaction of business and discussions or negotiations regarding the location, relocation or expansion of a business or an industry.

(k) Transaction of business and discussions regarding employment and termination of employees. The exemption provided by this paragraph includes the right to hold closed meetings concerning employees as such exemption relates to their deletion from any budget subject to approval of the public body. Final budgetary adoption shall not be taken in executive session.

(5) The total vote on the question of entering into an executive session shall be recorded and spread upon the minutes of such public body.

(6) Any such vote whereby executive session is declared shall be applicable only to that particular meeting on that particular day.
The Paradigm: How to invoke the executive session

In commending the understanding and appropriate use of the statute to Mississippi boards and commissions, the Mississippi Supreme Court has set forth the following in Hinds Co., supra, at 110:

1. The meeting must begin as an open meeting. (citation omitted)
2. A member must make a motion in open meeting for the meeting to be closed to deliberate whether or not the board should declare an executive session. The statute does not require a second to this motion, but the vote on this motion is taken in open meeting. If a majority votes to close the meeting to make a determination on the question of an executive session, the meeting is closed for this purpose. (citation omitted)
3. No other business during this closed interim shall be considered until a vote has been taken on whether or not to declare an executive session. (citation omitted) In order to go into executive session, a majority of three-fifths of those present must vote in favor of it. (citation omitted)
4. The board must then state in open meeting the reason for going into executive session, and this reason and the total vote thereon must be recorded on the minutes of the meeting. (citation omitted)
5. The vote to go into executive session is applicable only to that particular meeting on that particular day. (citation omitted)

The Court makes it clear that during the course of item #2, above, (should we go into executive session?) there is no need for the movant to disclose the reason for going into executive session, nor does his motion need a second. If a majority of the members present vote in favor of the motion, then the meeting is “closed” and the question before the board is only whether or not to go into executive session. It is inappropriate to discuss any other business.

If three-fifths (3/5) of the board votes to go into executive session, it is the duty of the chairman to re-open the meeting and announce publicly that the board is going into executive session and why. “The reason, of course, must be meaningful. It must be more than some generalized term which in reality tells the public nothing. To simply say, ‘personnel matters,’ or ‘litigation’ tells nothing. The reason stated must be of sufficient specificity to inform those present that there is in reality a specific, discrete matter or area which the board had determined should be discussed in executive session. *** When a board chairman tells a citizen he may not hear the board discuss certain business, he is taking liberties with the rights of that citizen, and the reason given for this interference must be genuine and meaningful, and one
the citizen can understand. *To permit generalized fluff would frustrate the very purpose of the Act.*” *Hinds Co., supra.* (emphasis supplied)

It is only after the chairman has announced to the public that the board is going to go into executive session and the reason therefor that the board can go into executive session. *Only this one matter can be discussed. No other matter may be discussed at the executive session than the announced subject.* The vote on each stage of the process must be recorded on the minutes of the meeting.

Many boards attempt to hide behind the embrace of only the general terms of the statute. But our high Court has said: “It will not suffice that the reason for which the Board went into executive session may or may not have fit under the rubric ‘personnel matter,’ ....” *Hinds Co., supra,* at 114. The Court went on to teach us that not only does it suffice to rely on such a general reason, that a meaningful and more specific reason should be given to the audience and thereafter recorded in the minutes. It is by this reason, in comparison to the activity accomplished in the executive session, that constituents can measure the transparency of their representatives. *No executive session can be used to circumvent or defeat the purposes of the Act. Hinds co., supra.* In fact, in *LaCroix v. Marshall County Board of Supervisors*, 28 So. 3d 650, 661 (Miss. Ct. App. 2009) the Court held that calling an executive session for “pending legislation” was deemed *insufficient,* citing *Hinds Co., supra.*

Moreover, there must be a reflection of what is done in executive session. Minutes must be taken and they must reflect “certain basic information and ‘any final action taken’.” *LaCroix, supra,* at 662.

As noted above, the Mississippi Ethics Commission has spoken to this issue on numerous occasions and all of its formal (public) opinions dealing with executive session can be accessed on its website. Several are worthy of note and will be discussed here.

*Walter Shelton Turner, Mayor v. Town of Sturgis Mayor and Board of Aldermen, Case No. M-12-011, issued June 6, 2014.*

The Commission found that on the occasion of the April 3, 2012 meeting, the board improperly entered into executive session. Alderman McCool made a motion to enter into executive session “for the purpose of a personnel matter.” There was a unanimous vote of the board in favor of the motion. There was not first a closed session in which the board made a determination of whether or not to go into executive session.
The board admits that it improperly entered into executive session and that the purpose of the personnel matter was to discuss the Mayor’s conduct in handling information pertaining to the Sturgis Bike Rally contract, but not the contract itself. The board argued it did not intentionally circumvent the Open Meetings Act.

The Ethics Commission found that the board failed to effectively go into closed session, as previously noted, and that the presiding officer failed to re-open the meeting and announce publicly that the board is going into executive session and the reason for doing so. The Commission further found that the board did not give a meaningful reason for entering into an executive session and that the board’s minutes were deficient in all of these particulars.

In the Commission’s opinion, it stated: “The board minutes simply state that a board entered executive session ‘for the purpose of a personnel matter.’ First, the board cannot simply state “personnel matters” as the purpose of the executive session. The board must inform the public of the actual matter to be discussed with sufficient specificity in addition to identifying the specific statutory exemption relied upon. Additionally, the mayor cannot be classified as personnel for the purposes of the ‘personnel matters’ exemption.

The city was found to be in violation of the Open Meetings Act.

*John W. Impson v. Mayor and Board of Aldermen of the City of Waveland, Case No. M-10-008, issued October 8, 2010.*

In this matter, Impson brought an action against the mayor and board because he believed that the board entered into executive session for an illegal reason. The Commission found that an appropriate closed determination was made and the board voted unanimously at that time to enter executive session “regarding potential litigation on ... terms of agreement with John and Gwen Impson.” The minutes reflected no action taken in executive session, yet at the conclusion of the meeting, the City’s attorney told the Impsons that they would need to vacate the space that the City had been providing them in the civic center in which they had been teaching art. Subsequently the attorney confirmed this decision with a letter. The Impsons charged that there was a decision made in executive session to remove the Impsons and for the attorney to confirm this eviction in writing.

The Commission found that there was no indication that the Impsons ever threatened to sue the city. However, the Impsons had hired an attorney and clearly a dispute had arisen between the city and the Impsons. It was not unreasonable for
the board to conclude litigation was possible in the foreseeable future. The Commission also found that the board followed all the procedural requirements for entering the executive session and gave a meaningful reason for entering into the session, including the parties to the potential litigation. While the Impsons argue that in order for the attorney to be authorized to tell them to move and to write the confirming letter, the minutes reflect that no action was taken and the Commission found that it would not be necessary to take a vote in order to instruct the attorney to take the action he did.

The complaint against Waveland was dismissed.

*Sarah Ann Hood v. Humphreys County Board of Supervisors, Case No. M-12-001, issued August 9, 2013.*

Hood complained that, on January 3, 2013, after a public discussion of state aid road money, one of the Supervisors said: “don't y'all think we need to go into executive session?” and all other supervisors assented, the meeting was closed. Hood complained that there was no meaningful reason to go into executive session given.

The minutes reflect as follows:

“In re: Motion to go into close session
It was moved by Supervisor Brown that the board go into close session to discuss matters to be taken up in an executive session. After it was determined that the board needed to go into executive session to discuss personnel matters, it was moved by Supervisor Brown and seconded by Supervisor Wood to go into executive session. No official action was taken in executive session, and it was moved by Supervisor Brown and seconded by Supervisor Broomfield to close the executive session. The matter was then put to a vote...”

All supervisors voted aye and the president of the board declared the motion passed. Then the minutes reflected that the board approved various hiring and termination actions, appointments, and authorization of legal payments.

The Commission found that the meeting was not closed, then reopened so the president of the board could state to the public that the board would be entering executive session nor was there any reflection on the minutes that the public was given a meaningful reason for going into executive session.
The board had responded to the Commission that the minutes reflected that the board “needed to go into executive session to discuss personnel matters.” The Commission found that it was unclear that this had actually happened as reflected in the minutes and that “personnel matters” is insufficient, but the board is obligated to state a genuine and meaningful reason with sufficient specificity so that the audience will understand that there is an actual, specific matter which is to be discussed. “Even if the topic falls under one of the categories listed in Section 42-41-7(4) (sic), failure to announce the reason(s) beyond the statutory provision will make the executive session inappropriate,” citing Hinds Co, supra, at 115.

Humphreys County was charged with several violations of the Open Meetings Act.

**PRINCIPAL FAILINGS OF BODIES IN FOLLOWING THE OPEN MEETINGS ACT.**
Most bodies fail in three (3) critical areas:

1. They do not use the correct procedure (often omitting the “closed meeting” element to deliberate whether or not to go into executive session; or

2. The call for executive session lacks clarity; or

3. The action taken in executive session is not related to the call.

The first failure is procedural. When this happens, the board simply misses a “step” in the process. This does not mean that it is not a violation of the law, but this failure is usually a failure of inadvertence, not intentionality. Unfortunately, the other two (2) failures are normally a result of impure motive.

The method for citizen complaint of a violation of the Open Meetings Act may be found at [www.mississippiethscommission.com](http://www.mississippiethscommission.com). There are many violations that have nothing to do with executive sessions, but the executive session is an often complained of issue.

Another popular violation appears to be related to notice. See §§ 25-41-5 and 25-41-13.

Various Ethics Commission opinions on this issue exist. One that is reflective of a majority is *Jane Patterson Boykin v. State Early Childhood Advisory Council [SECAC]*, Case No. M-12-007, issued February 1, 2013. This particular opinion addresses many of the “notice issues”.
Often a body will argue that it is not covered under the Open Meetings Act. SECAC did not make such an argument, however the applicability to boards is directly addressed in this opinion. SECAC failed to notice a special called meeting on March 1, 2012. While it admits that it “inadvertently” failed to post the notice of the meeting on its website as it customarily does, it urged that no violation of the law occurred because (1) the announcement of the meeting of March 1 was made at its February 9, 2012 meeting and spread upon the face of the minutes of that meeting and (2) the inadvertence was harmless because no official actions were taken. SECAC also argues that it has a number of committees and subcommittees, all making up less than a quorum of council members, but they are not subject to the Open Meetings Act.

The Ethics Commission discussed the requirements of notice for a recess, adjourned, interim or special called meeting, as found in Section 25-41-13 (1). While SECAC argued that only subsection (2) applied to it, the Commission disagreed and determined that SECAC violated the Open Meetings Act by failing to post proper notice of the special meeting as required by law. The Commission also discussed “public bodies” as defined by statute; the statute clearly contemplates “committees” of various covered boards, and relied upon Gannett River States Pub. Corp., Inc. v. City of Jackson, 866 So. 2d 462 (Miss. 2004) as committees are established for, among other things, the shaping of policy decisions that will ultimately be recommended to the larger body.

The Ethics Commission found SECAC in violation of several aspects of the Open Meetings Act.

The Ethics Commission website is replete with other formal opinions on “notice” that can be searched for additional information.
Title 25, Chapter 41, Miss. Code of 1972.

CHAPTER 41. OPEN MEETINGS

Section 25-41-1. Legislative statement
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§ 25-41-1. Legislative statement

It being essential to the fundamental philosophy of the American constitutional form of representative government and to the maintenance of a democratic society that public business be performed in an open and public manner, and that citizens be advised of and be aware of the performance of public officials and the deliberations and decisions that go into the making of public policy, it is hereby declared to be the policy of the State of Mississippi that the formation and determination of public policy is public business and shall be conducted at open meetings except as otherwise provided herein.

§ 25-41-3. Definitions

For purposes of this chapter, the following words shall have the meaning ascribed herein, to wit:

(a) "Public body" means any executive or administrative board, commission, authority, council, department, agency, bureau or any other policy making entity, or committee thereof, of the State of Mississippi, or any political subdivision or municipal corporation of the state, whether such entity be created by statute or executive order, which is supported wholly or in part by public funds or expends public funds, and any standing, interim or special committee of the Mississippi Legislature. There shall be exempted from the provisions of this chapter:
(i) The judiciary, including all jury deliberations;
(ii) Public and private hospital staffs, public and private hospital boards and committees thereof;
(iii) Law enforcement officials;
(iv) The military;
(v) The State Probation and Parole Board;
(vi) The Workers' Compensation Commission;
(vii) Legislative subcommittees and legislative conference committees;
(viii) The arbitration council established in Section 69-3-19;
(ix) License revocation, suspension and disciplinary proceedings held by the Mississippi State Board of Dental Examiners; and
(x) Hearings and meetings of the State Tax Commission and the hearing officers and the board of review of the State Tax Commission as provided in Section 27-77-15.

(b) "Meeting" means an assemblage of members of a public body at which official acts may be taken upon a matter over which the public body has supervision, control, jurisdiction or advisory power; "meeting" also means any such assemblage through the use of video or teleconference devices.

§ 25-41-5. Official meetings of public bodies

(1) All official meetings of any public body, unless otherwise provided in this chapter or in the Constitutions of the United States of America or the State of Mississippi, are declared to be public meetings and shall be open to the public at all times unless declared an executive session as provided in Section 25-41-7.

(2) A public body may conduct any meeting through teleconference or video means. A quorum of a public body as prescribed by law may be at different locations for the purpose of conducting a meeting through teleconference or video means provided participation is available to the general public at one or more public locations specified in the public meeting notice.

(3)(a) Notice of any meetings held pursuant to subsection (2) of this section shall be provided at least five (5) days in advance of the date scheduled for the meeting. The notice shall include the date, time, place and purpose for the meeting and shall identify all locations for the meeting available to the general public. All persons attending the meeting at any of the public meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location. Any interruption in the teleconference or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.
(b) Five-day notice shall not be required for teleconference or video meetings continued to address an emergency as provided in subsection (5) of this section or to conclude the agenda of a teleconference or video meeting of the public body for which the proper notice has been given, when the date, time, place and purpose of the continued meeting are set during the meeting prior to adjournment.

(4) An agenda and materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by teleconference or video means shall be recorded as required by Section 25-41-11. Votes taken during any meeting conducted through teleconference or video means shall be recorded by name in roll-call fashion and included in the minutes. In addition, the public body shall make an audio recording of the meeting, if a teleconference medium is used, or an audio/visual recording, if the meeting is held by video means. The recording shall be preserved by the public body for a period of three (3) years following the date of the meeting and shall be available to the public.

(5) A public body may meet by teleconference or video means as often as needed if an emergency exists and the public body is unable to meet in regular session. Public bodies conducting emergency meetings through teleconference or video means shall comply with the provisions of subsection (4) of this section requiring minutes, recordation and preservation of the audio or audio/visual recording of the meeting. The nature of the emergency shall be stated in the minutes.

§ 25-41-7. Public body holding executive sessions

(1) Any public body may enter into executive session for the transaction of public business; provided, however, all meetings of any such public body shall commence as an open meeting, and an affirmative vote of three-fifths (3/5) of all members present shall be required to declare an executive session.

(2) The procedure to be followed by any public body in declaring an executive session shall be as follows: Any member shall have the right to request by motion a closed determination upon the issue of whether or not to declare an executive session. Such motion, by majority vote, shall require the meeting to be closed for a preliminary determination of the necessity for executive session. No other business shall be transacted until the discussion of the nature of the matter requiring executive session has been completed and a vote, as required in subsection (1) hereof, has been taken on the issue.
(3) An executive session shall be limited to matters allowed to be exempted from open meetings by subsection (4) of this section. The reason for holding such an executive session shall be stated in an open meeting, and the reason so stated shall be recorded in the minutes of the meeting. Nothing in this section shall be construed to require that any meeting be closed to the public, nor shall any executive session be used to circumvent or to defeat the purposes of this chapter.

(4) A public body may hold an executive session pursuant to this section for one or more of the following reasons:

(a) Transaction of business and discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position.

(b) Strategy sessions or negotiations with respect to prospective litigation, litigation or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body.

(c) Transaction of business and discussion regarding the report, development or course of action regarding security personnel, plans or devices.

(d) Investigative proceedings by any public body regarding allegations of misconduct or violation of law.

(e) Any body of the Legislature which is meeting on matters within the jurisdiction of such body.

(f) Cases of extraordinary emergency which would pose immediate or irrevocable harm or damage to persons and/or property within the jurisdiction of such public body.

(g) Transaction of business and discussion regarding the prospective purchase, sale or leasing of lands.

(h) Discussions between a school board and individual students who attend a school within the jurisdiction of such school board or the parents or teachers of such students regarding problems of such students or their parents or teachers.

(i) Transaction of business and discussion concerning the preparation of tests for admission to practice in recognized professions.
(j) Transaction of business and discussions or negotiations regarding the location, relocation or expansion of a business or an industry.

(k) Transaction of business and discussions regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position. The exemption provided by this paragraph includes the right to enter into executive session concerning a line item in a budget which might affect the termination of an employee or employees. All other budget items shall be considered in open meetings and final budgetary adoption shall not be taken in executive session.

(l) Discussions regarding material or data exempt from the Mississippi Public Records Act of 1983 pursuant to Section 25-11-121.

(5) The total vote on the question of entering into an executive session shall be recorded and spread upon the minutes of such public body.

(6) Any such vote whereby an executive session is declared shall be applicable only to that particular meeting on that particular day.

§ 25-41-9. Rules and regulations for meetings

Any public body may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings.

§ 25-41-11. Minutes of meetings

(1) Minutes shall be kept of all meetings of a public body, whether in open or executive session, showing the members present and absent; the date, time and place of the meeting; an accurate recording of any final actions taken at such meeting; and a record, by individual member, of any votes taken; and any other information that the public body requests be included or reflected in the minutes. The minutes shall be recorded within a reasonable time not to exceed thirty (30) days after recess or adjournment and shall be open to public inspection during regular business hours.

(2) Minutes of a meeting conducted by teleconference or video means shall comply with the requirements of Section 25-41-5.

(3) Minutes of legislative committee meetings shall consist of a written record of attendance and final actions taken at such meetings.
§ 25-41-13. Notice

(1) Any public body which holds its meetings at such times and places and by such procedures as are specifically prescribed by statute shall continue to do so and no additional notice of such meetings shall be required except that a notice of the place, date, hour and subject matter of any recess meeting, adjourned meeting, interim meeting or any called special meeting shall be posted within one (1) hour after such meeting is called in a prominent place available to examination and inspection by the general public in the building in which the public body normally meets. A copy of the notice shall be made a part of the minutes or other permanent official records of the public body.

(2) Any public body, other than a legislative committee, which does not have statutory provisions prescribing the times and places and the procedures by which its meetings are to be held shall, at its first regular or special meeting after July 1, 1990 spread upon its minutes the times and places and the procedures by which all of its meetings are to be held.

(3) During a regular or special session of the Mississippi Legislature, notice of meetings of all committees, other than conference committees, shall be given by announcement on the loudspeaker during sessions of the House of Representatives or Senate or by posting on a bulletin board provided for that purpose by each body.

(4) When not in session, the meeting times and places of all committees shall be kept by the Clerk of the House of Representatives as to House committees and by the Secretary of the Senate as to Senate committees, and shall be available at all times during regular working hours to the public and news media.

§ 25-41-15. Enforcement of chapter; civil penalty

The Mississippi Ethics Commission shall have the authority to enforce the provisions of this chapter upon a complaint filed by any person. Upon receiving a complaint, the commission shall forward a copy of the complaint to the head of the public body involved. The public body shall have fourteen (14) days from receipt of the complaint to file a response with the commission. After receiving the response to the complaint or, if no response is received after fourteen (14) days, the commission, in its discretion, may dismiss the complaint or proceed by setting a hearing in accordance with rules and regulations promulgated by the Ethics Commission.
After a hearing, the Ethics Commission may order the public body to take whatever reasonable measures necessary, if any, to comply with this chapter. If the Ethics Commission finds that a member or members of a public body has willfully and knowingly violated the provisions of this chapter, the Ethics Commission may impose a civil penalty upon the individual members of the public body found to be in violation of the provision of this chapter in a sum not to exceed Five Hundred Dollars ($500.00) for a first offense and One Thousand Dollars ($1,000.00) for a second or subsequent offense, plus all reasonable expenses incurred by the person or persons in bringing the complaint to enforce this chapter.

Nothing in this chapter shall be construed to prohibit the Ethics Commission from mediating or otherwise resolving disputes arising under this chapter or from entering orders agreed to by the parties. In carrying out its responsibilities under this section, the Ethics Commission shall have all the powers and authority granted to it in Title 25, Chapter 4, Mississippi Code of 1972.

Any party may petition the chancery court of the county in which the public body is located to enforce or appeal any order of the Ethics Commission issued pursuant to this chapter. In any such appeal the chancery court shall conduct a de novo review.

§ 25-41-17. Chance meetings, social gatherings excluded

The provisions of this chapter shall not apply to chance meetings or social gatherings of members of a public body.
ABOUT THE AUTHOR

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Quarles was honored in 2006 by the American Bar Association’s Administrative Law and Regulatory Practice Section, receiving the Mary C. Lawton Award for lasting contributions to the Mississippi Workers’ Compensation Commission in the areas of alternative dispute resolution and access for Hispanic workers. She is also a recipient of the American Society of Public Administrators’ Joan Fiss Bishop Award, honoring a woman who has promoted increased participation of women in public administration, exhibited a defined contribution to increase women’s involvement in the public sector, and demonstrated innovative leadership and accomplished professionalism in her own public sector career.

Recognized by Martindale-Hubbell as an AV rated lawyer, the highest peer-evaluated designation, she also holds the Martindale-Hubbell designation as a Preeminent Women Lawyers in America.

ABOUT THE INSTITUTE

Based at our state’s land grant university, the Institute is often referred to as Mississippi’s think tank, but the Institute is much more. We are frequently called upon to provide technical assistance and consultation to state officials, local governments and community leaders regarding political, governmental, and economic and community development matters. Our mission is to enhance the capacities of state and local officials to deal effectively with today’s challenges regarding many issues. If the legislature needs a definitive study on the effects of a change in state law, a municipal government desires a compensation study or salary survey, or an association of government officials’ requests training on the latest legal or policy issues, the Institute responds with its wide variety of resources and capabilities.

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