

Title 16: Mississippi Arts Commission

Part 201: Rules and Regulations of the Mississippi Arts Commission

Part 201 Chapter 1: Organization, purpose, and operation of the Commission

Rule 1.1. Composition of the Board. The Mississippi Arts Commission (hereinafter "the Commission") is an agency of the State of Mississippi, composed of fifteen (15) members, broadly representative of all fields of the performing, visual, literary arts and the business community, appointed the Governor. Serving five (5) year terms, each member shall be representative of the different geographical areas of the state.

Source: *Miss. Code Ann. §§ 39-11-1 and 39-11-3*

Rule 1.2. Duties of Officers.

The Chair shall be the executive officer of the Board. When present, the Chair shall preside at all meetings. He or she shall appoint such committees as the Commission may authorize from time to time. The Chair shall sign all certificates and all other official documents, except that those delegated to the Executive Director for signature. In the absence the Executive Director, the Chair shall sign checks. He or she shall perform all other duties usually pertaining to the office of Chair and as permitted by Law.

The Vice-Chair, in the absence of the Chair, shall perform the duties delegated to the Chair except only the Chair shall sign certificates and checks, in the absence of the Executive Director.

The minutes of each Commission meeting shall be recorded and all correspondence in the name of the Commission shall be performed by the Chair or delegated to the Executive Director.

Source: *Miss. Code Ann. § 39-11-3*

Rule 1.3. Terms of Office.

Each Commission Officer shall serve a five (5) year term. No member of the commission who serves a full five-year term shall be eligible for reappointment during a one-year period following the expiration of his term.

Source: *Miss. Code Ann. § 39-11-3*

Rule 1.4. Executive Director.

The Commission shall hire an Executive Director who shall be responsible for the processing of routine operations and shall accept service of process as the Board's designated registered agent. The duties of the Executive Director shall be as determined by the Board. The Executive Director shall employ other officers, experts and employees as may be needed and shall fix their

compensation within the amounts made available for such purposes. Employment of staff members is subject to the approval of the Commission.

As an executive officer, the Executive Director shall serve at the pleasure of the Board.

All correspondence and submissions to the Board, including requests for information, shall be addressed to the Executive Director at the Board's office:

Executive Director
Mississippi Arts Commission
455 North Lamar Street
Suite 2A
Jackson, Mississippi 39202

Source: *Miss. Code Ann.* § 39-11-5

Rule 1.5. Vacancies

All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments.

If a vacancy shall occur in the membership of the Board, the Chair and the Secretary shall prepare a notice to the Governor asking for appointment of a new member to fill the unexpired term. If the vacancy occurs in the office of the Chair, the Vice-Chair and the Secretary shall prepare the notice to the Governor. Such notice shall include recommendations for nominees for the Governor's consideration for appointment to the Board.

If a vacancy occurs in any office, the Commission will elect a new officer during any regular meeting of the Commission to fill the unexpired portion of the term of office,

Source: *Miss. Code Ann.* §§ 39-11-3

Rule 1.6. Notice of Meeting. Notice shall be published and posted in accordance with applicable Mississippi law to afford proper public notice.

Source: *Miss. Code Ann.* §§ 25-41-1 et seq.

Rule 1.7. Order of Business. The order of business at all regular and special meetings shall be conducted in accordance with the Commission's Agenda. No later than five (5) business days prior to the date of the next scheduled meeting, any Commission Member may request items and/or issues to be placed upon the Agenda for the Commission's review, consideration and/or vote. The Executive Director shall prepare a draft Agenda at least two (2) business days prior to any scheduled meeting for review of all Commission Members. The final Agenda shall be adopted by formal Commission action during each regular and special meeting.

Source: *Miss. Code Ann.* § 25-41-5(3)

Rule 1.9. Robert's Rules of Order, as revised shall govern the proceedings of the Commission.

Source: *Miss. Code Ann. § 25-41-1 et seq.*

Chapter 2: Request for Information

Rule 2.1: Public Records Request

Excluding records exempted under Mississippi law, the Commission responds to public records requests pursuant to the Mississippi Public Records Act of 1983, Miss. Code Ann. § 25-61-1, *et seq.* in accordance with the following procedures:

- A. Requests for public records must be made in writing and submitted to the Mississippi Arts Commission, attention of “Requests for Public Records,” by email to pr@arts.ms.gov or by mail to 455 North Lamar Street, Suite 2A, Jackson, MS 39202.
- B. A request for a public record should describe in reasonable detail the records sought and, if possible, include a clear and concise description of the record desired including pertinent information such as names, date, etc. that may aid the Commission in locating the requested record(s).
 - I. The Commission has no duty to create a record to respond to a public records request.
 2. A public records request is one for an identifiable record and is not a request for information.
- C. The Commission shall either produce or deny production of the records sought within seven (7) business days after receipt of the request. In no event shall the production of documents responsive to a public records request exceed fourteen (14) business days from the date of receipt of the request.
- D. Pre-payment by the requesting party of the cost estimated by the Commission to review, search, duplicate and/or copy the requested records shall be required. All fees charged in advance by the Commission shall be intended to reimburse the Commission, and in no case, shall exceed, the actual cost incurred by the Commission to research, review, duplicate, copy and/or mail, if applicable, the records responsive to the request.
 1. Copy Fees: \$.15 per page
 2. Labor Costs: \$35.00 per hour
- E. If the requested records are exempt or privileged under applicable law, the Commission shall deny the request.

1. If any public record contains both exempt and non-exempt material, the Commission shall redact the exempted material and produce the nonexempted material for inspection, examination, copying or reproduction.
 2. Records provided to the Commission by third parties which contain trade secrets, or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction until notice has been given to the third parties. Unless subject to other exemption(s) or privilege, said records shall be released no later than twenty-one (21) days from the date the third parties are given notice by the Commission unless the third parties have filed in chancery court a petition seeking a protective order on or before the expiration of the twenty-one-day time period.
- F. In the event a public records request is denied, the Commission shall provide a written explanation to the requestor stating, with specificity, the reason(s) for the denial of the production of the requested records.

Source: *Miss. Code Ann.* §§ 25-61-5, 25-61-9, 39-11-13(4)

Chapter 3. Rulemaking Oral Proceedings

Rule 3.1 Purpose. This chapter consists of rules for oral proceedings held to provide the public an opportunity to comment on submissions made under the Administrative Procedures Act and the Rules in this Title.

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

Rule 3.2 Application of Chapter. 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 Mississippi Arts Commission pursuant to the Administrative Procedures Act.

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

Rule 3.3 Request for Oral Proceeding. When a political subdivision, an agency, or a citizen requests an oral proceeding in regard to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Mississippi Arts Commission 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. § 25-43-2.105.

Rule 3.4 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 agency providing the notice shall provide notice of oral proceedings to each requester. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Agency Head, 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. § 25-43-2.105.

Rule 3.5 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 Mississippi Arts Commission at least three 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 Mississippi Arts Commission 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. § 25-43-2.105.

Rule 3.6 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 Mississippi Arts Commission, part of the rulemaking record, and are subject to the Mississippi Arts Commission's public records request procedure. The Mississippi Arts Commission may record oral proceedings by stenographic or electronic means.

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

Chapter 4: Declaratory Opinions

Rule 4.1 Subjects Which May Be Addressed by Declaratory Opinions

The Commission will issue declaratory opinions regarding the applicability of specified facts to a statute administered or enforceable by the Commission, a rule promulgated by the Commission, or an order issued by the Commission. The Commission will not issue a declaratory opinion regarding a statute, rule, or order which is beyond the primary jurisdiction of the Commission.

"Primary jurisdiction" means:

- A. The Commission has a constitutional grant of authority in the subject matter,
- B. The Commission has a statutory grant of authority in the subject matter,
- C. The Commission has issued specific regulations impacting upon the subject matter, or
- D. The Commission has issued a specific order or orders impacting upon the subject matter.

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

Rule 4.2 Scope of Declaratory Opinion Request. A request shall be limited to a single transaction or occurrence.

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

Rule 4.3 Form of the Request for a Declaratory Opinion. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request on standard letter-size white paper (8 ½" x 11").

- A. The request shall be in the form of a letter addressed to the Commission or in the form of a pleading as if filed with a Court.
- B. All requests must be mailed to Post Office Box 1884, Jackson, MS 39215-1844 or hand-delivered to the Commission's office. Oral and/or telephone requests for a declaratory opinion will not be accepted.
- C. Each request shall include the full name, telephone numbers, e-mail address(es) 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 and its correspondence envelope, if any, shall clearly state it is a request for a declaratory opinion.

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

Rule 4.4 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. § 25-43-2.103(2)*

Rule 4.5 Request Content Requirement. Each request shall contain the following:

- A. A clear identification of the statute, rule, or order at issue,
- B. A concise statement of the issue or question presented 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, e-mail address(es) and telephone number, and
- E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

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

Rule 4.6 Submission of Proposed Opinion and Memorandum. The terms of a proposed opinion may be submitted to the Commission together with a request for a declaratory opinion. The request likewise may contain an argument by the requestor in support of those terms of the proposed opinion. The argument may be submitted in the form of a memorandum of authorities,

containing a full discussion of the reasons, including legal authorities, in support of such position of the requestor. The Commission also may request an argument and memorandum of authorities be submitted by any interested party.

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

Rule 4.7 Reasons for Refusal of Declaratory Opinion Request. The Commission may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- A. The matter is outside the primary jurisdiction of the Commission,
- 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 provided 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 or constitutional 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. The request has not been made in good faith,
- R. The request is harassing in nature,
- S. A similar request is pending before this agency, or another agency, or a proceeding is pending on the same subject matter before an agency, administrative or judicial tribunal, or
- T. The question involves eligibility for registration, a license, permit, certificate or other approval by the Commission or another Agency, Board or Commission, and there is a statutory or regulatory application process by which eligibility for said registration, license, permit, or certificate or other approval may be determined.

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

Rule 4.8 Commission 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 Commission 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 reason(s) for its refusal.

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

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

Rule 4.9 Final Opinion. A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of the sixty (60) days, the Commission may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious.

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

Rule 4.10 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. Declaratory opinions and requests which contain confidential information or information which is 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. § 25-43-2.103(2)*

Chapter 5: Building Fund for the Arts (BFA) Grant Program

Rule 5.1 Building Fund for the Arts Grant Application and Guidelines. Within the Mississippi Arts Commission certain nonprofit organizations qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code and units of local government may apply for reimbursable grants to:

- A. Make repairs, upgrading, expansion, renovation or enhancements of existing buildings and facilities for the presentation, teaching or exhibition of the arts in any and all of its forms and furniture, equipment and/or technology for such buildings or facilities
- B. Construction of new buildings and facilities for the presentation, teaching or exhibition of the arts in any and all of its forms and furniture, equipment and/or technology for such buildings or facilities; or
- C. The development, construction, equipping and furnishing of an entertainment and film center and museum and completion of a sound stage project.

Additionally, Two Hundred Thousand Dollars (\$200,000.00) of any monies deposited into the fund during Fiscal Year 2023 shall be used to provide grant funds for the establishment of a band and music program for a nonprofit organization in this state that is qualified as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

To apply for funding under this Act, eligible applicants should visit the Mississippi Arts Commission website located at www.arts.ms.gov.

All application procedures, deadlines and guidelines related to administration of the BFA Grant Program are located within the "Grants" section of the Mississippi

G. A request for a public record should describe in reasonable detail the records sought and, if possible, include a clear and concise description of the record desired including pertinent information such as names, date, etc. that may aid the Commission in locating the requested record(s).

I. The Commission has no duty to create a record to respond to a public records request.

2. A public records request is one for an identifiable record and is not a request for information.

H. The Commission shall either produce or deny production of the records sought within

seven (7) business days after receipt of the request. In no event shall the production of documents responsive to a public records request exceed fourteen (14) business days from the date of receipt of the request.

- I. Pre-payment by the requesting party of the cost estimated by the Commission to review, search, duplicate and/or copy the requested records shall be required. All fees charged in advance by the Commission shall be intended to reimburse the Commission, and in no case, shall exceed, the actual cost incurred by the Commission to research, review, duplicate, copy and/or mail, if applicable, the records responsive to the request.

- 3. Copy Fees: \$.15 per page

- 4. Labor Costs: \$35.00 per hour

- J. If the requested records are exempt or privileged under applicable law, the Commission shall deny the request.

3. If any public record contains both exempt and non-exempt material, the Commission shall redact the exempted material and produce the nonexempted material for inspection, examination, copying or reproduction.
 4. Records provided to the Commission by third parties which contain trade secrets, or confidential commercial or financial information shall not be subject to inspection, examination, copying or reproduction until notice has been given to the third parties. Unless subject to other exemption(s) or privilege, said records shall be released no later than twenty-one (21) days from the date the third parties are given notice by the Commission unless the third parties have filed in chancery court a petition seeking a protective order on or before the expiration of the twenty-one-day time period.
- K. In the event a public records request is denied, the Commission shall provide a written explanation to the requestor stating, with specificity, the reason(s) for the denial of the production of the requested records.

Source: *Miss. Code Ann.* §§ 25-61-5, 25-61-9, 39-11-13(4)