



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

July 11, 2022

Gregory P. Holcomb, Esq.  
Attorney, City of Poplarville  
Post Office Box 113  
Poplarville, Mississippi 39470

Re: Mayor's Access to City Employee Personnel Records

Dear Mr. Holcomb:

The Office of the Attorney General has received your request for an official opinion.

### **Questions Presented**

1. Under a code charter form of government, does the power and control extended to the mayor by Mississippi Code Annotated Section 21-3-15 allow for the mayor to have access to city employee personnel records?
2. If the answer to the previous question is "yes," must the city clerk provide the mayor unlimited access to the city employee personnel records?

### **Brief Response**

1. Section 21-3-15 gives the mayor executive power of the municipality and superintending control of all the officers and affairs of the municipality, which includes access to city employee personnel records.
2. The clerk must provide the mayor with full rights of access to information that is necessary to perform his/her respective duties on behalf of the municipality.

### **Applicable Law and Discussion**

Mississippi Code Annotated Section 21-3-15 sets forth the powers of a mayor in a code charter form of government, and states, in pertinent part: "The executive power of the municipality shall be exercised by the mayor, and the mayor shall have the superintending control of all the officers and affairs of the municipality, and shall take care that the laws and ordinances are executed." This

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office has previously explained that “superintending control” as used in Section 21-3-15 means the “general oversight and supervision of municipal departments and employees, of all the officers, employees and affairs of the municipality.” MS AG Op., *Pepper* at \*1 (Jan. 17, 2014). “The mayor, as the chief executive officer, has general supervisory oversight of municipal government and the daily operation of municipal government is to be supervised by the mayor to ensure that proper services are provided.” MS AG Op., *Reynolds* at \*2 (Mar. 30, 2007). This office further opined in MS AG Op., *Young* at \*1 (July 1, 2004) “that members of the governing authority of a municipality, which includes the mayor and aldermen, have full rights of access to information which is necessary to perform their duties on behalf of the municipality.”

Therefore, it is the opinion of this office that for the mayor to exercise general oversight and supervision of municipal departments and employees, it is necessary for the mayor to have access to city employee personnel records, and the city clerk must provide the mayor full access to personnel records and other information that is necessary to perform his/her duties on behalf of the municipality.

Records may only be accessed for lawful purposes. The mayor and any other individual with access to employee records must recognize that “[r]ecords which are confidential under state law, such as personnel records, may be reviewed in the scope of performance of duties on behalf of the municipality, although anyone reviewing those documents must maintain that confidentiality.” *Young* at \*1 (July 1, 2004). “[A]ny person who has gained access to confidential personnel records ‘has an affirmative duty to protect the confidentiality of those records, and failure to so protect those records could result in penalties and/or potential liability.’” MS AG Op., *Wall* at \*1 (Aug. 11, 2017) (quoting MS AG Op., *Stovall* (Jan. 6, 2004)).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ *Gregory Alston*

Gregory Alston  
Special Assistant Attorney General