



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

August 17, 2023

Jeffrey J. Turnage, Esq.  
Attorney, City of Columbus  
Post Office Box 1408  
Columbus, Mississippi 39703-1408

Re: Authority to Close Fire Station and Reassign Staff

Dear Mr. Turnage:

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

### Questions Presented

1. May the chief of the Columbus Fire and Rescue Department close a fire station when he determines that there is insufficient manpower to respond to fires and then temporarily reassign the employees of that station to neighboring station(s) until sufficient staff is on hand, or does this decision have to be approved case-by-case by the Mayor as the Chief Executive Officer of the city?
2. May the Mayor give his general approval to the chief of the Columbus Fire and Rescue Department to temporarily close a station when a manpower shortage prevents operation of the fire apparatus, or is such delegation prohibited?

### Brief Response

1. If the city of Columbus's charter addresses the question at hand, the charter controls. Otherwise, the city of Columbus may exercise the authority it has in regard to fire departments and systems as set forth in Mississippi Code Annotated Section 21-25-3(1) and adopt an ordinance allowing the chief of the Columbus Fire and Rescue Department to close a fire station when he determines that there is insufficient manpower to respond to fires and then temporarily reassign the employees of that station to a neighboring station(s) until sufficient staff is on hand.
2. Please see the response to your first question.

### **Applicable Law and Discussion**

You ask whether the chief of the Columbus Fire and Rescue Department (“Fire Chief”) may close a fire station when he determines that there is insufficient manpower to respond to fires and then temporarily reassign the employees of that station to a neighboring station(s) until sufficient staff is on hand. According to your request, the city of Columbus (“City”) operates under a special charter. This office has previously opined that “where the provisions of a special charter conflict with general law[,] . . . the specific provisions of a municipal special charter will take precedence over the provisions of general municipal law.” MS AG Op., *Gaylor* at \*1 (Dec. 15, 2006). Likewise, the “provisions of a private or special charter that are contrary to general statutory provisions are viewed by this office as exceptions to the statutory provisions except where the general statutes expressly provide otherwise.” *Id.* (quoting MS AG Op., *Lowe* at \*1).

However, “when a municipality’s special charter is silent on a particular issue, general law as it relates to municipalities should be followed.” MS AG Op., *Alexander* at \*2 (May 30, 2003). To this end, Section 21-25-3(1) provides, “[t]he governing authorities of municipalities shall have the power to provide for the prevention and extinguishment of fires, to organize, establish, operate, and maintain fire and hook and ladder companies, to provide for and maintain a fire department and system, and to regulate the same.” *See also Scott v. Lowe*, 78 So. 2d 452, 454 (Miss. 1955) (highlighting municipalities’ power in regard to fire departments and noting that “city authorities in transferring an employee of the fire department from one post to another act in an administrative and executive capacity, and necessarily are vested with a wide discretion in the discharge of their duties a[s] officers of the city.”)

If the City’s charter does not address the question at hand, the City may exercise the authority provided in Section 21-25-3(1), which would allow the City to adopt an ordinance allowing the Fire Chief to close a fire station when he determines that there is insufficient manpower to respond to fires and to temporarily reassign the employees of that station to neighboring station(s) until sufficient staff is on hand. The City should also consider any potentially relevant regulations — upon which this office may not opine— including but not limited to those regulations and requirements regarding fire insurance rating.

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/ *Maggie Kate Bobo*

Maggie Kate Bobo  
Special Assistant Attorney General