



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

December 21, 2023

Jonathan W. Davis, Esq.
Board of Trustees, Mississippi Delta Community College
Post Office Box 29
Indianola, Mississippi 38751-0029

Re: Simultaneous Service as Sheriff and Member of Community College
Board of Trustees

Dear Mr. Davis:

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

Question Presented

May a member of the board of trustees of a community college, who is later elected to the public office of sheriff, continue to serve on the board of trustees?

Brief Response

Yes. A sheriff and a member of a community college board of trustees both serve within the executive branch, and the separation of powers doctrine does not prohibit a person from holding more than one position in the same branch of government.

Applicable Law and Discussion

The scope of this opinion is limited to whether simultaneous service in two public positions violates the separation of powers doctrine. We refer you to the Mississippi Ethics Commission regarding potential conflicts of interest or other ethical implications arising out of simultaneous service.

The powers of the government of the state of Mississippi are divided into three distinct departments: the legislative branch, the judicial branch, and the executive branch. MISS. CONST. art. I, § 1. The separation of powers doctrine prohibits a person from holding positions in two different branches of government if both positions exercise “core powers” within their respective branch. *See* MISS. CONST. art. I, § 2; MS AG Op., *Hudson* at *1 (June 26, 2020). “Core power”

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has been defined by the Court to include those circumstances “where the acts are ongoing and are in the upper level of governmental affairs and have a substantial policy-making character.” MS AG Op., *Hudson* at *1 (quoting *Dye v. State*, 507 So. 2d 332, 343 (Miss. 1987)).

Turning to the specific question at hand, this office has opined that a member of a community college board of trustees “exercises powers at the core of the executive branch.” MS AG Op., *Wiggins* at *1 (Aug. 30, 2013). Likewise, the Mississippi Supreme Court has provided that a “sheriff is a member of the executive branch of government.” *Lewis v. Hinds Cnty. Cir. Court*, 158 So. 3d 1117, 1124 (Miss. 2015) (citing MISS. CONST. art. V, § 138; Miss. Code Ann. § 19-25-35). Because a sheriff and a member of a community college board of trustees both serve within the executive branch of government, simultaneous service in these positions does not violate the separation of powers doctrine.

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

OFFICIAL OPINION