



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

January 30, 2025

The Honorable Jim Luke  
Mayor, City of Picayune  
203 Goodyear Boulevard  
Picayune, Mississippi 39466

Re: Core Powers

Dear Mayor Luke:

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

### **Background**

According to your request, Picayune (the “City”) is currently without a fire chief. The City is in the process of interviewing for the position, and one of the candidates is well suited for the position. The City is considering hiring the candidate; however, the candidate currently serves in a separate position as a justice court judge for Pearl River County. The City is aware that the Office of the Attorney General has previously opined that a justice court judge exercises core powers within the judicial branch of government. *See MS AG Op., Glover* at \*2 (July 8, 2005). The City is also aware that if the City’s fire chief exercises core powers of the executive branch, then that person cannot serve as both the City’s fire chief and justice court judge for Pearl River County. You provide that the City’s fire chief can generally hire and fire the fire department employees, but the city manager has the final say in hiring and firing with the ability to overrule the fire chief’s recommendation. Beyond this, a summary of the fire chief’s major duties are as follows:

- Assume full management responsibility for all fire department services and activities, including serving as the Civil Defense Director with full responsibility for the City
- Represent the fire department to other City departments, elected officials, and outside agencies
- Develop and manage the fire department budget
- Coordinate fire department activities with other departments, outside agencies, schools, and organizations
- Direct department staff meetings
- Respond to major emergencies and direct and participate in the fire suppression and rescue operations activities as necessary

- Oversee, review, and approve all purchase acquisitions
- Perform other duties as directed

### Question Presented

Does the position of fire chief for the City exercise “core powers” of the executive branch of government?

### Brief Response

Based on your described duties of the City’s fire chief, including but not limited to managing all fire department services and activities, serving as the Civil Defense Director, and having the ability to hire and fire employees, it is the opinion of this office that the City’s fire chief exercises core powers in the executive branch of government.

### Applicable Law and Discussion

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’ 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)). “[L]ow level ‘administrative matters,’” on the other hand, do not equate to an exercise of core power. *Dye*, 507 So. 2d at 343 (quoting *Alexander v. State*, 441 So. 2d 1329, 1337 (Miss. 1983)).

You ask if the City’s fire chief exercises “core powers” of the executive branch of government.<sup>1</sup> This office has previously opined that a county fire coordinator, serving as a liaison between the Commissioner of Insurance and local government, exercises powers that are “ongoing and are in the upper level of governmental affairs.” MS AG Op., *Smith* at \*1-2 (Aug. 8, 2005). We have also opined that a county civil defense director in the executive branch could not simultaneously serve on the county board of supervisors in the judicial branch.<sup>2</sup> MS AG Op., *Walley* at \*1 (Mar. 15, 2002). Likewise, in MS AG Op., *Horne* at \*1 (Aug. 1, 2007), we opined that a “homeland security director for a municipality *performs core power duties which are essentially equivalent to or exceed the duties of a civil defense director or emergency management director.*” (emphasis added). And in MS AG Op., *Williams* at \*3 (Mar. 27, 2009), this office opined that the power to hire and fire the city manager was an executive core power.

In your request, you state that the City’s fire chief, among other duties, assumes full management responsibility for all fire department services and activities, including serving as the Civil Defense Director with full responsibility for the City. You also state that the fire chief can generally hire and fire the fire department employees. These duties are not “low level administrative matters.”

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<sup>1</sup> As noted in your request, a city fire chief is in the executive branch. *See* MS AG Op., *Pope* at \*1 (Feb. 20, 2015).

<sup>2</sup> We note that there was no discussion of “core powers” in reaching this conclusion.

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*Dye*, 507 So. 2d at 343. Rather, as this office has previously opined, such duties are “ongoing and are in the upper level of governmental affairs and have a substantial policy-making character.” *Id.* Accordingly, it is the opinion of this office that the City’s fire chief exercises core powers in the executive branch of government.

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