



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

February 3, 2025

John T. Lamar, Jr., Esq.  
Attorney for the Board of Trustees  
Northwest Mississippi Community College  
214 South Ward Street  
Senatobia, Mississippi 38668

Re: Jurisdiction Over Fire Prevention Code of Community College  
Building

Dear Mr. Lamar:

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

### **Background**

Northwest Mississippi Community College (“NWCC”) is constructing a new building at its Southaven location. A question has arisen regarding which governmental entity has the authority to determine the standards and requirements for fire prevention and protection. The sources of funding for the new building are as follows: \$7 million from the Economic Development Authority; \$4 million from NWCC; \$3 million from the state of Mississippi; and \$1 million from DeSoto County.

### **Question Presented**

Which entity has jurisdiction and authority over fire prevention and protection for a community college construction project? Specifically, is it the State Fire Marshal, the local governmental entity’s fire marshal, or another entity?

### **Brief Response**

The State Fire Marshal promulgates the Mississippi Fire Prevention Code (“MFPC”), which applies to all state-owned buildings, all buildings used for public assembly, and those buildings that are seventy-five feet tall or taller, so long as there is not a local fire code that is not less stringent than the MFPC. Miss. Code Ann. § 45-11-101(1)(a), (b), (c). Otherwise, the local code

will apply, and the local fire marshal will have enforcement authority and jurisdiction. *See* Miss. Code Ann. § 45-11-101.

### **Applicable Law and Discussion**

Section 45-11-101 provides in pertinent part:

(1) The State Fire Marshal shall promulgate the Mississippi Fire Prevention Code which shall apply to:

(a) All buildings owned by the state or state agencies;

(b) All buildings utilized for public assembly, except in any county or municipality which has adopted a fire prevention code with standards not less stringent than the Mississippi Fire Prevention Code; however, the State Fire Marshal or his authorized representative shall perform investigations or inspections of such buildings only when advised by interested persons of a danger or hazardous inflammable condition existing in any building that would tend to impair the safety of persons or property, or when the State Fire Marshal or his authorized representative believes the investigation or inspection is in the interest of public safety. The investigation or inspection shall be made in accordance with Section 45-11-3;

(c) All buildings, the permits for the construction of which are issued subsequent to July 1, 1978, and which are not less than seventy-five (75) feet in height; provided, however, that in any county or municipality which has adopted a fire prevention code with standards not less stringent than the Mississippi Fire Prevention Code, the provisions and enforcement mechanism thereof shall apply and not the Mississippi Fire Prevention Code;

. . .

(e) Any buildings, the permits for construction of which are issued subsequent to July 1, 2004, upon the request of any interested person. The interested person may submit the construction plans to the State Fire Marshal's Office for review and approval before construction to ensure compliance with the Mississippi Fire Prevention Code; however, in any county or municipality that has adopted a fire prevention code with standards not less stringent than the Mississippi Fire Prevention Code, the provisions and enforcement mechanism thereof shall apply instead of the Mississippi Fire Prevention Code.

. . .

(2) The State Fire Marshal shall annually examine the fire prevention codes adopted by counties and municipalities within the State of Mississippi and

prepare a list thereof specifying which codes have provisions not less stringent than those of the Mississippi Fire Prevention Code.

The Mississippi Fire Prevention Code (“MFPC”) applies to all state-owned buildings. Miss. Code Ann. § 45-11-101(1)(a). Because we have previously opined that community and junior college buildings are not state-owned and therefore not subject to Subsection (1)(a),<sup>1</sup> the local fire code would generally apply, and the local fire marshal would have jurisdiction. MS AG Op., *Dale* at \*1 (Sept. 27, 2000).

However, in accordance with Section 45-11-101(1)(b) and (c), all buildings used for public assembly and those that are seventy-five feet in height or more are subject to the MFPC and the State Fire Marshal’s jurisdiction unless there is a local fire prevention code “with standards not less stringent” than the MFPC. Whether the building will be used for public assembly and/or is seventy-five feet or taller are factual determinations to be made by the governing board of the community college. Finally, an interested person may request that the State Fire Marshal review and approve the construction plans before construction begins to ensure compliance with the MFPC where there is not a local code in place that is not less stringent than the MFPC. Miss. Code Ann. § 45-11-101(1)(e). Whether any local fire code is not less stringent than the MFPC is a determination to be made by the State Fire Marshal. Miss. Code Ann. § 45-11-101(2).

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/ Abigail C. Overby*

Abigail C. Overby  
Special Assistant Attorney General

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<sup>1</sup> Section 37-4-1 specifically states that community and junior colleges are “agencies of local government rather than agencies of the state.”