



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 1, 2025

The Honorable Jefferick Butler
President, North Bolivar Consolidated School District Board of Trustees
Post Office Box 290
Duncan, MS 38740

Re: Separation of Powers

Dear Mr. Butler:

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

Question Presented

Does the separation of powers doctrine prohibit a school board member from concurrent service as a city alderman?

Brief Response

The separation of powers doctrine prohibits a school board member from concurrent service as a city alderman because a school board member exercises core powers in the executive branch of government, and a city alderman exercises core powers in the legislative 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 Mississippi Supreme 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 (citing *Dye v. State*, 507 So. 2d 332, 343 (Miss. 1987)) (internal citations omitted).

“[A] school board member is in the executive branch of government.” MS AG Op., *Simmons* at *1 (June 10, 2011) (citing MS AG Op., *Gregg* (Sept. 18, 1979), MS AG Op., *Chaney* at *1 (May 16, 2003)). Further, school board members “are at the ‘core of power’ in the executive branch of government according to the standard set forth in *Dye*.” MS AG Op., *Simmons* at *1.

Hon. Jefferick Butler

May 1, 2025

Page 2

Mississippi Code Annotated Section 21-3-15(2)(a) provides in pertinent part that “[t]he legislative power of the municipality shall be exercised by the board of aldermen. . . .” This office has previously opined that a member of the board of aldermen in a code charter municipality serves within the legislative branch of government. MS AG Op., *Collins* at *2 (May 30, 2008) (internal citations omitted). Accordingly, “boards of aldermen exercise core powers of the legislative department of municipal government.” MS AG Op., *Beshears* at *1 (Jan. 18, 2013) (internal citations omitted).

Because the positions of school board president and city alderman exercise core powers within the executive and legislative branches of government, respectively, the separation of powers doctrine prohibits concurrent service in both positions. For further guidance, we refer you to the Mississippi Ethics Commission.

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/ *Caleb A. Pracht*

Caleb A. Pracht
Special Assistant Attorney General

OFFICIAL OPINION