

**BEFORE THE MISSISSIPPI ETHICS COMMISSION**

**THE COMMERCIAL DISPATCH**

**COMPLAINANT**

**VS.**

**PUBLIC RECORDS CASE NO. R-21-015**

**CITY OF COLUMBUS, MISSISSIPPI**

**RESPONDENT**

**FINAL ORDER**

This matter came before the Mississippi Ethics Commission through a Public Records Complaint filed by The Commercial Dispatch (the “newspaper”) against the City of Columbus, Mississippi (the “city”). The city filed a response to the complaint. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-61-13, Miss. Code of 1972. In accordance with Rule 5.6, Rules of the Mississippi Ethics Commission, the hearing officer prepared and resented a Preliminary Report and Recommendation to the Ethics Commission at its regular meeting on November 5, 2021. The respondent did not object to the Preliminary Report and Recommendation and has thereby waived a right to a hearing on the merits. Accordingly, the hearing officer enters this Final Order in accordance with Rule 5.6, Rules of the Mississippi Ethics Commission.

**I. FINDINGS OF FACT**

1.1 The Commercial Dispatch alleges the City of Columbus violated the Public Records Act because City Registrar Brenda Williams would not allow Dispatch News Editor Isabelle Altman to photograph public records. Specifically, on June 2, 2021, Ms. Altman appeared in person at the Office of the City Registrar and asked to view campaign finance reports from municipal candidates running for city mayor and council positions. Ms. Williams allowed Ms. Altman view to the records, but specified that she could not photograph them.

1.2 In response, the city claims that the complainant did not properly request public records, such that this issue is not ripe for adjudication. The city’s adopted policy concerning public records requests requires the submission of a written request on the city’s form. The complainant did not submit a written request in this case. However, the city concedes that “ordinarily there would be no logical reason to prohibit a photograph of a public document.”

**II. CONCLUSIONS OF LAW**

2.1 The Mississippi Public Records Act of 1983 (the “Act”), codified at Section 25-61-1, et seq., Miss. Code of 1972, provides that public records shall be available for inspection by any person unless otherwise provided by law and places a duty upon public bodies to provide access to such records. Section 25-61-2 and Section 25-61-5. “Public records” are defined as all documents or records “having been used, being in use, or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction, work, duty or function of any public body.” Section 25-61-3(b). In interpreting the Act, the Mississippi Supreme Court has held that the Act should be construed liberally, while exceptions must be applied narrowly.

Mississippi Dept. of Wildlife, Fisheries and Parks v. Mississippi Wildlife Enforcement Officers' Assn, Inc., 740 So.2d 925, 936 (Miss. 1999).

2.2 Records filed with a municipal clerk (or the city's registrar, as in this case) regarding campaign contributions and expenditures pursuant to the subsection regarding disclosure of campaign finances in the Mississippi Election Code (Section 23-15-801, et. seq) are public records, subject to the Public Records Act. Section 23-15-805(c) of the Mississippi Code states:

Candidates for municipal office, and every political committee which makes reportable contributions to or expenditures in support of or in opposition to a candidate for such office, or makes reportable contributions to or expenditures in support of or in opposition to a municipal ballot measure shall file all reports required by this article in the office of the municipal clerk of the municipality in which the election occurs, or directly to the Office of the Secretary of State. . . .

Section 23-15-805(d) specifically directs municipal clerks to make "all reports received under this subsection available for public inspection and copying" and "preserve the reports for a period of five (5) years."

2.3 While Section 25-61-5(1)(a) of the Act allows public bodies to adopt "reasonable written procedures ... concerning the cost, time, place and method of access [to public records], and [to give] public notice of the procedures," there is no statutorily required format for a valid public records request. Generally, a rule requiring that public records requests be made on a specific form is reasonable. Reasonable written procedures that require requestors to make written public records requests ensures that a public body has all of the information that it needs to properly and timely fulfill a public records request and allows a public body to properly index and organize public records requests. See, Comment 3.6, Rule 3, Mississippi Model Public Records Rules.

2.4 However, some public records, such as these campaign finance reports, or, for example, minutes of public bodies (see, Mississippi Open Meetings Act, Section 21-41-11 and Miss. Att'y Gen. Op. 2020-00021, Smith (July 31, 2020)), or land rolls (see, Section 27-35-123 of the Mississippi Code and Miss. Att'y Gen. Op. 2015-00369, McKenzie (Oct. 30, 2015)), are statutorily required to be maintained in a manner so as to be readily available to the public. In contrast, see also, Miss. Att'y Gen. Op. 2016-00384, Criswell (Aug. 26, 2016) (Section 45-9-151 of the Mississippi Code which mandates the maintenance of a Docket of Seized Deadly Weapons which may be maintained electronically, does not contain a specific restriction on the manner in which the electronic documents must be maintained.) For these kinds of public records, an oral request and prompt access must be allowed.

2.5 Additionally, in this case, the City Registrar waived the requirement of a written public records request when she allowed Ms. Altman to view the campaign finance records. Thus, the city violated the Public Records Act by restricting the photographing of public records for which access had already been granted.

### III. CONCLUSION

WHEREFORE, IT IS HEREBY ORDERED as follows:

3.1 The Ethics Commission finds that the City of Columbus, Mississippi violated Section 25-61-5 of the Mississippi Public Records Act by restricting the photographing of public records.

3.2 The Ethics Commission orders the City of Columbus, Mississippi to strictly comply with the Public Records Act.

SO ORDERED, this the 9th day of December, 2021.

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SONIA SHURDEN, Hearing Officer  
Mississippi Ethics Commission