



Arkansas  
Secretary  
Of State

# The Arkansas Register



**Volume XXV, Number 3**

**September 2001**

*Corporation and UCC Records - Elections - Capitol Building and Grounds*

State Capitol - Little Rock, Arkansas 72201-1094 - 800.482.1127 - [www.sosweb.state.ar.us](http://www.sosweb.state.ar.us)

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# THE ARKANSAS REGISTER

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**Secretary of State  
State Capitol, Room 026  
Little Rock, AR 72201-1094**

**Editor . . . . . Jon Davidson**

**Published by . . . . .**  
*Secretary of State*

The *Arkansas Register* is an official publication of the State of Arkansas. It contains administrative rules and regulations adopted by state agencies, boards and commissions pursuant to Act 434 of 1967, as amended. The *Arkansas Register* also includes Attorney General opinions, notice of legislative audit reports and insurance orders. The subscription rate is \$40 per year or \$3.50 a copy, distributed monthly, postpaid within the United States.

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# ATTORNEY GENERAL OPINIONS

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**Opinion No.:**           **2001-156**

Paul Weaver  
*State Representative*

**RE:** Are provisions in the attached Izard County ordinance, regarding a proposed construction project for a new water well for the City of Horseshoe Bend legal? **RESPONSE:** It depends upon factual issues. Section 14-234-104 does not prohibit the long-term financing at issue, provided the city does not pledge its general credit or tax-based revenues to repay the loan. See Opinion for full discussion.

**Opinion No.:**           **2001-163**

Ed Wilkinson  
*State Senator*

**RE:** Is Rule 8 of the Arkansas Department of Higher Education's Rules and Regulations for Institutional and Program Certification in violation of the 1st Amendment to the US Constitution and the right of religious freedom under Sections 24 or 25 of the Arkansas Constitution? **RESPONSE:** The rule does not, on its face, give rise to a Free Exercise problem, but it may, on its face, give rise to an Establishment Clause problem. See opinion for analysis.

**Opinion No.:**           **2001-180**

Cathie Matthews  
*Director, Dept. of Arkansas Heritage*

**RE:** Can the Arkansas Territorial Capitol Restoration Commission (Commission) maintain its current relationship with the Arkansas Territorial Restoration Foundation (Foundation) since this relationship furthers a public purpose by providing funds and other benefits to the Commission which are used to operate its museum? Q2) Does the constitutionality of this relationship depend on the value

of the benefits from the Foundation equaling or exceeding the value of the assistance from the Commission? Q3) Would the answer to Q1 be affected if the Commission and Foundation entered into annual agreements that specified the obligations and benefits from each organization to the other? **RESPONSE:** 1) It may depend upon how the arrangement is structured. 2) A mathematical quid-pro-quo is not required, although some consideration may be. 3) A written agreement is advisable.

**Opinion No.:**           **2001-186**

Campbell, Chas & Fields  
*Directors, Pharmacy & Nursing Boards*

**RE:** Does an advanced practice nurse with prescriptive authority have the implied authority, pursuant to applicable law, to "give" sample, prescription drugs to a patient? **RESPONSE:** Although Arkansas law does not expressly address the issue, in my opinion advanced practice nurses with prescriptive authority do have the authority to give sample prescription drugs to patients.

**Opinion No.:**           **2001-187**

Sam Ledbetter  
*State Representative*

**RE:** Is Section 6 of Act 635 of 2001, which prohibits a nursing facility from itemizing a "quality assurance fee" on a resident's bill, in violation of art. 2, sec. 6 of the Arkansas Constitution or the First Amendment free speech clause of the United States Constitution? **RESPONSE:** A federal district court in Minnesota granted a preliminary injunction against a similar law in 1993, based upon a colorable commercial speech violation, but the facts with regard to Act 635 are somewhat distinct. The ultimate question may turn the importance of the legislature's asserted interest and the reasonableness of the legislation's "fit" to this asserted interest. These are

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to some degree questions of fact.

**Opinion No.: 2001-194**

Chaney Taylor, Jr.  
*State Representative*

**RE:** What authority does the city council have in regulating the approval or disapproval of the water and sewer commission providing services outside the city limits? **RESPONSE:** The city council has absolute authority to approve or disapprove the Commission's decision regarding extension of water and sewer services outside city limits. See *City of Little Rock v. Chartwell Valley Limited Partnership*, 299 Ark. 542, 772 S.W.2d 61 (1980).

**Opinion No.: 2001-197**

Jimmy "Red" Milligan  
*State Representative*

**RE:** Is Act 422 of 1977, as amended, a cafeteria type act? Must zoning (14-17-209) be included in the authorizing act, or can it be specifically excluded? Q2) Can a quorum court, acting under other authorization that Act 422, enact specific ordinances controlling planning and zoning functions without a planning board being created? Can each of these functions be enacted separately without enacting all? Q3) Is a county, either through the county judge or quorum court, required by Arkansas statute to enact any authorization for planning and zoning? Q4) Does a quorum court or a planning board have the authority to enact road specifications and standards that a county judge must follow in the administration of the county road system? If roads are built to such specifications and standards, is a county judge required to accept such roads into the county road system? **RESPONSE:** Q.1 Zoning cannot be specifically excluded from an ordinance enacted under A.C.A. 14-17-201 et seq., (see 14-17-203), which authorizes creation of a Planning Board. See Op. 2001-181. Q.2 Yes, under 14-14-807 (4). Accord

Op. 97-308. Any county planning and/or zoning laws must, however, be consistent with state law. See generally 14-14-809. Q.3 No. See A.C.A. 14-14-802 (b)(2)(B)(iv). Q.4 This will depend on whether, under the particular facts and circumstances, there is any interference with the constitutional and statutory power of the county judge or the county court over county roads. See Op. 97-181.

**Opinion No.: 2001-198**

Janice A. Judy  
*State Representative*

**RE:** Can the City of Fayetteville, by ordinance, provide for an appeal of decisions by the city's planning commission granting or denying a conditional use permit to the city's governing body? **RESPONSE:** Yes. A.C.A. 14-56-416 (b) (2) (B) (ii), which requires appeals to courts of record of decisions in respect to variances, does not apply to conditional use permit decisions.

**Opinion No.: 2001-199**

Richard A. Weiss  
*Interim Director, AR Dept of Env. Qual.*

**RE:** Pursuant to provisions of ACA 8-7-907 and -908, as amended by Act 599 of 1999, an owner or operator or a regulated petroleum storage tank must expend \$7,500 before he can receive reimbursement from the Petroleum Storage Tank Trust Fund for either corrective action or third-party claims. Prior to 1997 the deductible amount was \$25,000, which was reduced to \$15,000 by Act 642 of 1997. Which deductible amount applies for older occurrences for which reimbursement is currently being sought from the Trust Fund? **RESPONSE:** As a general matter, the various acts should not be applied retroactively. A question remains, however, as to whether the applicable deductible is the one in effect on the date of the occurrence, the date of discovery of the

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occurrence, the date the occurrence reasonably should have been discovered, the date the occurrence is reported, the date corrective action is begun or completed, or the date of the claim. Legislative clarification is indicated.

**Opinion No.: 2001-200**

Jim Hill  
*State Senator*

**RE:** Can an elected city official, specifically the recorder/treasurer, also be employed by the county municipal court and serve without conflict? Q2) Is there an individual who is responsible for affirming or disapproving such service? **RESPONSE:** 1) It depends upon the classification of city. In some instances, a state statute may authorize the dual service. See e.g., 16-17-304 and 16-17-211 (g). Assuming there is no applicable statute, the dual service is in all likelihood prohibited under the common law "incompatibility of offices" doctrine. 2) In various ways, the municipal judge, city council or electorate may have this power. See opinion for full discussion.

**Opinion No.: 2001-202**

Mike Hathorn  
*State Representative*

**RE:** Are municipal court clerks considered employees of the city or the county? **RESPONSE:** It is impossible to answer this question in a blanket fashion, because municipal courts differ in organization and funding, and because the answer may depend upon the context. The salaries of some clerks, and the responsibility for payment of same, are set in A.C.A. 16-17-108. See also ACA 16-17-115, as to the payment of salary. Retirement benefits are governed by ACA 24-8-301 - 319 and are funded through the city administration of justice fund. See ACA 16-10-308.

**Opinion No.: 2001-206**

Don C. Morrow  
*Adj. Gen., Military Dept of Arkansas*

**RE:** May a commissioned officer in the Arkansas National Guard run for and simultaneously serve as Arkansas Attorney General? **RESPONSE:** Any applicable Arkansas prohibitions in this regard have been superseded by federal law. See Op. Att'y. Gen. 96-327 and the Uniformed Services Employment and Reemployment Rights Act ("USSERRA"), 38 U.S.C. Sec. 4301 -to 4333.

**Opinion No.: 2001-207**

Stephen D. Bright  
*State Representative*

**RE:** In light of the fact that all offices for Maumelle City government, except for two aldermanic positions that are scheduled for runoff on July 24th, were elected with a clear majority on July 3rd, can the remaining officials (6 aldermen, the mayor, and city attorney) or any part of the newly elected government body take office before the July 24th runoffs? **RESPONSE:** Ark. Law does not address this question, but the legislative intent of the most relevant statutes (which appears to be the avoidance of vacancies) indicates that the 6 aldermen should wait until after the runoff to take office.

**Opinion No.: 2001-212**

Bill H. Stovall, III  
*State Representative*

**RE:** For the purpose of assessing late fees, may a utility company calculate the date of payment using the actual date of receipt or is the utility company obligated to consider the postmark date as being the date of receipt. **RESPONSE:** The answer to your question will turn on the terms of the contract between the utility company and the ratepayer. If the contract

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expressly dictates that payment will be deemed made only upon receipt, that contractual provision will control. Neither the Arkansas courts nor the legislature have yet addressed whether payment will be deemed made as of the date of mailing in the absence of such a provision.

**Opinion No.: 2001-213**

Phil Jackson / Mike Hathorn  
*State Representatives*

**RE:** How many times and to how much property can you take homestead deductions? **RESPONSE:** Arkansas law provides for several varieties of homestead exemption. A.C.A. 26-3-306 (Repl. 1997) exempts from taxation the homestead and personal property of certain disabled veterans, as well as their surviving unmarried spouses and minor children. In accordance with Ark. Const. amend. 79, Act 1544 of 2001, codified at A.C.A. 26-26-1118(a)(1), authorizes a \$300 exemption on any homestead, provided that no assessment shall be less than zero. No individual may claim more than one homestead exemption. See Section 4 of Act 1544, A.C.A. 26-26-1119(a)(1). Amendment 79 further provides that for taxation purposes, the assessed value of homesteads owned by the disabled and individuals over the age of 65 cannot be increased. Homestead exemptions are available on an annual basis.

**Opinion No.: 2001-214**

Terry Smith  
*State Senator*

**RE:** Is it legal and authorized under Arkansas State Code for a second class city to enter into an agreement with a neighboring 3rd class or incorporated city to furnish law enforcement services to that city? **RESPONSE:** Such action can be legal assuming the provisions of the agreement comport with law. See Opinion 98-121. The city attorneys should be consulted in this regard.

**Opinion No.: 2001-215**

Mark Riable  
*Chair, Board of Trustees Blind & Deaf Schools*

**RE:** Are employees of the Arkansas School for the Deaf eligible for the proposed pay increase under Act 1461 of 2001? **RESPONSE:** It depends upon whether a particular employee occupies a position for which proficiency in American Sign Language is required as a "secondary minimum qualification." If so, the employee is eligible to receive the pay increment. This determination is one of fact, however.

**Opinion No.: 2001-216**

Tom Allen  
*Chair, Homes Inspector Advisory Board*

**RE:** Should provisions of ACA 17-52-107(b) be interpreted to mean that the Homes Inspector Advisory Board ("Board") should only accept resident training courses for applicants applying for registration under ACA 17-52-103(a)(3)(D)? Does ACA 17-52-107(b) require the Board to establish standards for all forms of training courses, apprenticeship programs, etc.? Q2) Should the phrase "a real estate inspection education program" as it is used in ACA 17-52-103(a)(3)(D), be interpreted to mean that the 90 core hours be part of one course curriculum as opposed to two or more courses which combined total 90 or more hours? Q3) Do provisions of ACA 17-52-107(b)(1) require that the Board establish standards that must be literally applied to all applicants, or is there latitude to make exceptions based on the applicants' particular qualifications or circumstances? Q4) Please scrutinize the existing registration statutes to determine what latitude, if any, the Board has in applying the education standards and qualifications for registration. **RESPONSE:** Q1) The Board's statutory discretion includes determining whether only a resident training course will suffice. However, the Board's discretion is bounded by the mandates of the commerce clause. Q2) The Board has discretion on

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a case-by-case basis to determine whether a single 90-hour course or several courses totaling 90 hours will suffice. Q3) The Board has latitude to define standards, subject to the absolute requirement that one of the four conditions set forth at ACA 17-52-103(a)(3) be met. Q4) The Board has discretion to determine "subject content and standards," ACA 17-52-107(b)(1), subject to the statutory prescriptions set forth elsewhere.

**Opinion No.: 2001-217**

Stacy Witherell  
*Employee Service Manager, LR Human Resources*

**RE:** Should the custodian of records withhold or release transcripts and other investigatory records that resulted from what was determined to be an unfounded harassment claim in order to comply with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:** Because the employee being investigated was not suspended or terminated, the records should not be released to the public. However, because they are also the personnel records of the complaining party, they must be made available to her or to her designated representative.

**Opinion No.: 2001-218**

Lindbergh Thomas  
*State Representative*

**RE:** Does the entity operating as the Grady City Court (2d class city) constitute a properly organized city court, a municipal court, or neither. **RESPONSE:** I lack information to determine even that the City of Grady had a properly established city court before 1976, much less that Judge Armstrong was properly appointed Grady City Court Judge in 1976. I see no bar to the mayor in 1976 appointing the Star City Municipal Judge as Grady City Court Judge, although nothing in the record reflects that this happened. With respect to the current mayor's letter of June 21, 2001 designating the Grady court a city court and appointing

the Star City Municipal Judge to the position of Grady City Judge, I believe this action either created or confirmed the existence of a city court. However, I believe the appointment of a municipal judge to this position may well be impermissible under Ark. Const. amend. 80.

**Opinion No.: 2001-219**

Robert Harrison  
*Chair, Comm'n on Law Enforcement & Standards*

**RE:** Does the phrase "all new law enforcement officers in the State of Arkansas," as it is used in Act 1452 of 2001, apply to officers undergoing Officer Basic Training in Arkansas (minimum 432-hour course) as well as those officers who are required to attend the 40-hour refresher course? **RESPONSE:** The act clearly applies to new trainees. The Commission is invested with some discretion as to out-of-state transferees required to take the "refresher" course. The act is somewhat ambiguous, but the Commission would not be acting outside its discretion to decline to apply the new requirement to out-of-state transferees.

**Opinion No.: 2001-220**

David Rackley  
*State Representative*

**RE:** What is the statute of limitation on serving a misdemeanor warrant? **RESPONSE:** Neither the Arkansas Code nor the Arkansas Rules of Criminal Procedure recites a time limit for serving a misdemeanor arrest warrant. However, A.C.A. § 5-1-109(f) provides that an action shall not be deemed "commenced" for purposes of tolling the statute of limitations on the underlying offense unless the arrest warrant is served without unreasonable delay. In addition, a court may characterize as an impermissible violation of due process an avoidable delay in service that prejudices the defendant or unfairly benefits the government.

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**Opinion No.: 2001-221**

Bob Johnson  
*State Senator*

**RE:** Since the City of Plumerville no longer has a police officer who is a member of LOPFI, is the City entitled to receive police turn back insurance tax funds? If so, can the City use this money for any purpose other than police retirement? Q2) If the City is not legally entitled to these funds: a) must the City return the money? If so, to what agency should the funds be returned and into what fund should the funds be deposited? Must the City return only the fees it has received or must the City return the fees and the interest the funds have accumulated? If the City can keep the interest, are there any restrictions on its use? b) How can the City of Plumerville be removed from the permanent certification list for police turn back insurance tax funds? **RESPONSE:** Q.1 Yes, assuming that the Arkansas Local Police and Fire Retirement System (LOPFI) Board provided no other directions to the Insurance Commissioner regarding the City's eligibility to receive the turnback funds. Certification was continuous unless otherwise directed by the Board. A.C.A. 24-11-302; 24-10-409. The "excess moneys" may be used for police or fire retirement under 24-10-409 (e). Q.2 A response to the first part is unnecessary in light of the response to Q.1. It is my understanding that the City is no longer on the certification list. This can be confirmed by DF&A.

**Opinion No.: 2001-223**

Thomas Lindbergh  
*State Representative*

**RE:** A salary history has been requested for the years 1999, 2000, and 2001 for all employees of the City of Dumas. Under the Freedom of Information Act (FOIA), are there any certain guidelines that must be followed? **RESPONSE:** Yes. See ACA 25-19-

105 c (3)(A) and consult the city attorney.

**Opinion No.: 2001-224**

Cliff Hoofman  
*State Senator*

**RE:** Q1) Do provisions of ACA 24-11-421(a) require that the City of North Little Rock re-enroll Chief Bradley in the local pension plan, especially since he has fully vested in that plan, retired after 20 years of service and begun receiving his pension benefits? Q2) Is the fact that Bradley has returned to NLR as Chief of Police, a certified law enforcement officer serving at the will of the Mayor, a sufficient distinction to treat him as a new hire who should be enrolled in LOPFI? **RESPONSE:** Q1) ACA 24-11-421 does not require the City of NLR to re-enroll the officer in the local fund. Indeed, it is my opinion that he may not re-enroll in the local fund. However, it is my opinion that he may join LOPFI. Q2) This distinction is not necessary in order to enroll this officer in LOPFI.

**Opinion No.: 2001-225**

John Lewellen  
*State Representative*

**RE:** Pursuant to provisions of Act 941 of 2001, is the University of Arkansas at Little Rock (UALR) restricted to contract only with the National Association of Minority Contractors (ARNAMC) in implementing the Small Contractor's Mentoring Pilot Program provided for in Section 1 of the Act? **RESPONSE:** I am neither able nor authorized to answer the factual question of precisely what the legislature intended in making these appropriations. However, Act 941 on its face declares that only ARNAMC should receive the funds earmarked in subsections 1(B) and (D), assuming such funds are actually expended.

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**Opinion No.: 2001-226**

Steve Schall  
*State Representative*

**RE:** Q1) If the city police serve a misdemeanor warrant, can the warrant fee authorized by city ordinance pursuant to ACA 14-52-202(b)(3) be required to be posted by a defendant at the time of service pursuant to A.R.C.P. 9.2(d)? Q2) If so, is there any conflict with Rule 9.2(d) and ACA 16-90-113, with respect to previous opinions which opine that warrant fees cannot be “collected” at the time of service, but only when a judgment for costs is entered? **RESPONSE:** Q1) It cannot be required to be posted. However, a defendant must be permitted to post it. Q2) In light of the answer to Q1, this question is moot.

**Opinion No.: 2001-228**

Jim Pickens  
*Director, AR Dept. of Economic Dev.*

**RE:** Was the decision of the custodian of records not to release ADEDs database of registrants attending the State’s Opportunity Arkansas Conferences, consistent with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:** No. A database of this nature is not subject to any exemption from disclosure under the FOIA, and must therefore be released.

**Opinion No.: 2001-231**

Jake Files  
*State Representative*

**RE:** Does Act 470 of 2001 apply to child care providers who transport children in passenger vans as a part of their services? **RESPONSE:** Yes.

**Opinion No.: 2001-232**

Larry Dowd  
*Chair, Miller Co. Election Commission*

**RE:** Is the Miller County Election Commission required to place a school uniform policy on the September ballot in response to a certified petition under ACA 6-18-102, even though the school district attorney claims the particular school district is exempt from such a petition under ACA 6-18-102(d)? **RESPONSE:** The Miller County Election Commission has only ministerial powers. The substantive legal issue of whether the petition is lawful must be decided by a court. If the petition has been certified as sufficient, the Board of Election Commissioners does not have the discretion, acting alone, to keep the measure from the ballot. The Board may institute a judicial action to determine the matter, or may await the bringing of such an action by the School District or other interested parties.

**Opinion No.: 2001-235**

Rebecca A. Jones  
*County Civil Attorney*

**RE:** Request for approval of an interlocal cooperation agreement between Columbia County and the City of Magnolia to establish and operate a multi-jurisdictional 911 public safety communications center serving both the city and county. **RESPONSE:** Attorney General approval is unnecessary.

**Opinion No.: 2001-236**

M. Olin Cook  
*State Representative*

**RE:** Does the phrase “other than one operated for hire,” as it is used in Act 470 of 2001, apply to vehicles used by child care facilities to transport kindergarten children to and from public schools? **RESPONSE:** No.

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# ATTORNEY GENERAL OPINIONS

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**Opinion No.: 2001-240**

Steve Schall  
*State Representative*

**RE:** Q1) Pursuant to provisions of ACA 26-77-301, do municipalities still have authority to license and tax vending machines? Q2) If so, what is the maximum decal fee or tax which may be imposed? **RESPONSE:** Q1) No. The ACA 26-77-301 has been impliedly repealed. Q2) In light of the response to Q1, this question is moot.

**Opinion No.: 2001-242**

Jan A. Judy  
*State Representative*

**RE:** Pursuant to regulations promulgated by Act 1209 of 2001, can an entity licensed by the Arkansas State Board of Pharmacy as a wholesale distributor of List I Chemicals, purchase said chemicals from out-of-state suppliers, hold or store bulk containers of ephedrine, pseudoephedrine, or phenylpropanolamine (non-safe harbor packaged) in its warehouse or other facility located in Arkansas for resale and delivery to an out-of-state buyer(s) in a state whose laws permit these drugs to be sold in this bulk form? **RESPONSE:** Ark. law does not address the issue of wholesale storage of List I chemicals. However, it should be noted that wholesale distributors must comply with applicable federal law on this issue, including registration in accordance with the federal Controlled Substances Act (21 USC 801 et seq.).

**Opinion No.: 2001-244**

Larry H. Gentry, #538  
*Sgt., ASP Troop A*

**RE:** Is the decision of the custodian of records to release records of all disciplinary actions taken against

me in the last three years consistent with provisions of the Freedom of Information Act? Q2) If so, I request that my name and other personal information be redacted prior to release and that none of the information be released to news media or third parties not approved by the court to receive this information. **RESPONSE:** Q1) . This is a factual question that entails applying the standard for the release of job performance records under the FOIA. If you were suspended or terminated and that decision was not reversed on administrative appeal, the custodian must release the records upon determining that there is a compelling public interest in their disclosure. Q2) This office lacks authority to offer such relief.

**Opinion No.: 2001-245**

James N Brown, #151  
*Arkansas State Trooper*

**RE:** Whether the decision of the custodian of records to release records documenting an internal affairs investigation of an incident directly related to my employment with the Arkansas State Police is consistent with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:** This is a factual question that entails applying the standard for the release of job performance records under the FOIA. If you were suspended or terminated and that decision was not reversed on administrative appeal, the custodian must release the records upon determining that there is a compelling public interest in their disclosure.

**Opinion No.: 2001-246**

Leslie F. Cook

**RE:** Was the decision of the custodian of records to release information regarding this former state trooper's disciplinary records consistent with provisions of the Freedom of Information Act (FOIA) in light of the fact that he effectively resigned from the Arkansas State Police on August 27, 1999?

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RESPONSE: Records reflecting job performance are disclosable under the FOIA only if there has been a final administrative resolution of any suspension or termination proceeding, and only then if (a) the administrative resolution upheld a decision to suspend or to terminate and (b) a compelling public interest in disclosure exists. If, as you indicate, you were neither suspended nor terminated but instead resigned, I do not believe your job performance records are subject to disclosure.

**Opinion No.: 2001-247**

Joe Cornelius  
*Arkansas State Trooper*

**RE:** Was the decision of the custodian of records to release information regarding this trooper's disciplinary records consistent with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:** Records reflecting job performance are disclosable under the FOIA only if there has been a final administrative resolution of any suspension or termination proceeding, and only then if (a) the administrative resolution upheld a decision to suspend or to terminate and (b) a compelling public interest in disclosure exists. The custodian will need to determine if these conditions for disclosure have been met.

**Opinion No.: 2001-248**

Jeffery L. Drew, (Sgt.)  
*Arkansas State Trooper*

**RE:** Was the decision of the custodian of records to release information regarding this trooper's disciplinary records consistent with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:**

Records reflecting job performance are disclosable under the FOIA only if there has been a final administrative resolution of any suspension or termination proceeding, and only then if (a) the administrative resolution upheld a decision to suspend or to terminate and (b) a compelling public interest in disclosure exists. The custodian will need to determine if these conditions for disclosure have been met.

**Opinion No.: 2001-249**

Dean Thomas Ross, #343  
*Arkansas State Trooper*

**RE:** Was the decision of the custodian of records to release documents regarding this officer's disciplinary actions consistent with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:** Records reflecting job performance are disclosable under the FOIA only if there has been a final administrative resolution of any suspension or termination proceeding, and only then if (a) the administrative resolution upheld a decision to suspend or to terminate and (b) a compelling public interest in disclosure exists. The custodian will need to determine if these conditions for disclosure have been met.

**Opinion No.: 2001-255**

Percy Malone  
*State Senator*

**RE:** Do provisions of Act 944 of 1977 and/or Amendment 80 to the Arkansas Constitution prohibit the City of Caddo Valley from forming a city court? **RESPONSE:** Act 944 is not clearly prohibitory in effect, but Amendment 80 prohibits the creation of such a court after July 1, 2001.

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# ADOPTED RULES AND REGULATIONS

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## BOARD OF DENTAL EXAMINERS

Docket No.: 038.00.01--005  
Effective Date: 8/25/01  
Contact Person: Judy Rickard  
Telephone: (501) 682-2085

**Amendment to Articles V - Advertising;  
VI - Name of Practice; and VII -  
Announcement of Specialization and  
Limitation of Practice**

## DEPARTMENT OF COMMERCE

*State Bank Department*

Docket No.: 003.02.01--001  
Effective Date: 9/7/01  
Contact Person: Candace Franks  
Telephone: (501) 324-9019

**Assessment Fees**

## EDUCATION DEPARTMENT

*Administrative Services*

Docket No.: 005.01.01--005  
Effective Date: 9/23/01  
Contact Person: Bobbie Davis  
Telephone: (501) 682-1297

**ADE 124 - Waivers of the Earnings  
Limitations Under the Teacher  
Retirement System**

Docket No.: 005.01.01--006  
Effective Date: 9/23/01  
Contact Person: Randall Greenway  
Telephone: (501) 682-2009

**ADE 125 - Rules Governing Charter  
Schools**

Docket No.: 005.01.01--007  
Effective Date: 9/23/01  
Contact Person: Randall Greenway  
Telephone: (501) 682-2009

**ADE 126 - Rules Governing Limited  
Charter Schools**

Docket No.: 005.01.01--008  
Effective Date: 9/23/01  
Contact Person: Annette Berry  
Telephone: (501) 682-5124

**ADE 127 - Rules Governing Loans and  
Bond Applications**

*Attorney's Office*

Docket No.: 005.23.01--002  
Effective Date: 9/23/01  
Contact Person: Scott Smith  
Telephone: (501) 682-4227

**ADE 123 - Reporting Compliance and  
Withholding Aid from School Districts  
Not in Compliance**

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# ADOPTED RULES AND REGULATIONS

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## *Financial Services*

Docket No.: 005.04.01--002  
Effective Date: 9/23/01  
Contact Person: Annette Berry  
Telephone: (501) 682-5124

### **ADE 128 - Mobile Phone Usage by School Bus Drivers**

## *Office of Accountability*

Docket No.: 005.19.01--006  
Effective Date: Proposed  
Contact Person: Ron Tolson  
Telephone: (501) 682-4342

### **PROPOSED RULE: Governing the Adding of Additional Areas of Licensure and the Probationary Route to Certification**

Docket No.: 005.19.01--007  
Effective Date: Proposed  
Contact Person: Annette Berry  
Telephone: (501) 682-5124

### **PROPOSED RULE: Identifying and Governing Self-Construction Projects by Public Education Entities**

## **GAME & FISH COMMISSION**

Docket No.: 002.00.01--006  
Effective Date: 9/9/01  
Contact Person: Annette Berry  
Telephone: (501) 682-5124

## **Late Migratory Seasons and Codes; Fishing Regulation Changes**

## **HEALTH DEPARTMENT**

### *Pharmacy Services*

Docket No.: 007.07.01--001  
Effective Date: 9/2/01  
Contact Person: Jerry Jones  
Telephone: (501) 661-2325

## **List of Controlled Substances**

Docket No.: 007.07.01--002  
Effective Date: 9/2/01  
Contact Person: Jerry Jones  
Telephone: (501) 661-2325

## **Rules Pertaining to Controlled Substances**

## **HIGHER EDUCATION**

### *Colleges and Universities Plans and Operations*

Docket No.: 008.02.01--002  
Effective Date: 9/7/01  
Contact Person: Gary Smith  
Telephone: (501) 575-3507

## **Academic Year 2001-2002 Parking Rules and Regulations for the University of Arkansas - Fayetteville**

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# ADOPTED RULES AND REGULATIONS

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## HUMAN SERVICES

### *Administrative Services*

Docket No.: 016.14.01--017  
Effective Date: 9/28/01  
Contact Person: Bill Tyler  
Telephone: (501) 682-9631

### **Policy 1087 - Employee Drug & Alcohol Prevention**

Docket No.: 016.14.01--018  
Effective Date: 9/17/01  
Contact Person: Bill Tyler  
Telephone: (501) 682-9631

### **Policy 1098 - Appeals and Hearings Procedures \*\*\***

Docket No.: 016.14.01--019  
Effective Date: 9/17/01  
Contact Person: Bill Tyler  
Telephone: (501) 682-9631

### **Administrative Procedures Manual: Chapter 907 - Mail Services \*\*\***

### *Children & Family Services*

Docket No.: 016.15.01--006  
Effective Date: 9/22/01  
Contact Person: Vivian Jackson  
Telephone: (501) 682-1577

### **Educational Leave and Educational Assistance (XI-A to XI-C5), the CFS-4330, CFS-4331 and CFS-4332**

### *County Operations*

Docket No.: 016.20.01--012  
Effective Date: 10/1/01  
Contact Person: Cathy Rowe  
Telephone: (501) 682-8726

### **Low Income Home Energy Assistance Program (LIHEAP) Detailed Model Plan - Public Law 97-35, as amended Fiscal Year 2002 \*\*\***

Docket No.: 016.20.01--013  
Effective Date: 9/15/01  
Contact Person: Sandra Miller  
Telephone: (501) 682-8251

### **MS 28000 - Medicaid for the Working Disabled**

### *Medical Services*

Docket No.: 016.06.01--045  
Effective Date: 8/26/01  
Contact Person: Tom Show  
Telephone: (501) 682-2483

### **State Plan #2001-010 -- Private Hospital Inpatient Adjustment**

Docket No.: 016.06.01--046  
Effective Date: 8/26/01  
Contact Person: Tom Show  
Telephone: (501) 682-2483

### **State Plan #2001-006**

\*\*\* No electronic file available

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# ADOPTED RULES AND REGULATIONS

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Docket No.: 016.06.01--047  
Effective Date: 8/26/01  
Contact Person: Tom Show  
Telephone: (501) 682-2483

## **State Plan #2001-011 -- Pediatric Hospital Inpatient Adjustment**

Docket No.: 016.06.01--048  
Effective Date: 9/1/01  
Contact Person: Will Taylor  
Telephone: (501) 682-8362

## **Official Notice DMS-2001-L-5 - Critical Access Hospitals**

Docket No.: 016.06.01--049  
Effective Date: 9/1/01  
Contact Person: Binnie Alberius  
Telephone: (501) 682-8361

## **State Plan #2001-016 -- Helicopter Ambulance**

Docket No.: 016.06.01--050  
Effective Date: 9/1/01  
Contact Person: Binnie Alberius  
Telephone: (501) 682-8361

## **State Plan #2001-014**

Docket No.: 016.06.01--051  
Effective Date: 9/1/01  
Contact Person: Binnie Alberius  
Telephone: (501) 682-8361

## **State Plan #2001-013 -- Eligibility Conditions and Requirements \*\*\***

Docket No.: 016.06.01--052  
Effective Date: 10/1/01  
Contact Person: Tommy Wingard  
Telephone: (501) 682-6117

## **Criminal Record Checks for Employees in Long Term Care Facilities \*\*\***

### **PHARMACY BOARD**

Docket No.: 070.00.01--009  
Effective Date: 9/22/01  
Contact Person: Charles Campbell  
Telephone: (501) 682-0190

## **03-00 -- Pharmacy Technicians - Registration / Permit Required**

Docket No.: 070.00.01--010  
Effective Date: 9/22/01  
Contact Person: Charles Campbell  
Telephone: (501) 682-0190

## **04-05-0001 -- Hospital Pharmaceutical Services Permit**

Docket No.: 070.00.01--011  
Effective Date: 9/22/01  
Contact Person: Charles Campbell  
Telephone: (501) 682-0190

## **07-02-0001 -- Dispensing Sterile Parenteral Products Standards**

\*\*\* No electronic file available

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# ADOPTED RULES AND REGULATIONS

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Docket No.: 070.00.01--012  
Effective Date: 9/22/01  
Contact Person: Charles Campbell  
Telephone: (501) 682-0190

## 09-01 -- Disease State Management

Docket No.: 070.00.01--013  
Effective Date: 9/22/01  
Contact Person: Charles Campbell  
Telephone: (501) 682-0190

## 02-06-0003 -- Implementation of Pharmacy Continuing Education

### POLLUTION CONTROL & ECOLOGY COMMISSION

#### *Hazardous Waste*

Docket No.: 014.09.01--005  
Effective Date: 9/7/01  
Contact Person: Mike Bates  
Telephone: (501) 682-0831

## Emergency Rule: Regulation 23 - Hazardous Waste Management

#### *Water Pollution Control*

Docket No.: 014.04.01--002  
Effective Date: 9/17/01  
Contact Person: Bill Keith  
Telephone: (501) 682-0660

## Regulation #2 - Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas

### PUBLIC EMPLOYEES RETIREMENT SYSTEM

Docket No.: 075.00.01--002  
Effective Date: 8/27/01  
Contact Person: Gail Stone  
Telephone: (501) 682-7855

**Employer Contribution Rates; Public Safety Credit; Drop Provisions; Membership Eligibility for Policemen and Firemen; Enrollment by Colleges and Universities; Termination of other Employer Participating Retirement Plans; Final Average Salary; Partial Annuity Withdrawal Eligibility \*\*\***

### SOIL & WATER CONSERVATION COMMISSION

Docket No.: 138.00.01--001  
Effective Date: 9/12/01  
Contact Person: Mark Bennett  
Telephone: (501) 682-3965

## Title XIV -- Rules Implementing the Water Resource Conservation and Development Incentives Act

\*\*\* No electronic file available

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# ADOPTED RULES AND REGULATIONS

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Docket No.: 138.00.01--002  
Effective Date: 9/12/01  
Contact Person: Mark Bennett  
Telephone: (501) 682-3965

**Title V -- Administrative Rules and Regulations for Financial Assistance**

## STATE BUILDING SERVICES

Docket No.: 017.00.01--001  
Effective Date: 9/17/01  
Contact Person: Robert Laman  
Telephone: (501) 682-5558

**Revision Sections: Section 1 - General, Section 3 - Real Property Transfers, Section 4 - SBS Construction Section, Section 5 - Real Estate Services Section, Section 6 - Architectural Section, Section 7 - Engineering Section**

## STATE MEDICAL BOARD

Docket No.: 060.00.01--004  
Effective Date: 8/25/01  
Contact Person: Peggy Cryer  
Telephone: (501) 296-1802

**Amendment to Regulation 7 -- Governing the Prescribing of Amphetamines and Amphetamine Type Drugs**

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# INSURANCE DEPARTMENT

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\*\*\*\* No Insurance Orders were filed with the *Arkansas Register* during the past filing period for placement in this edition.

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# ORDERS AND NOTICES

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## LEGISLATIVE AUDIT August 29, 2001

<b>Agency</b>	<b>Period Covered</b>
Arkansas Game and Fish Commission	6/30/00
Department of Parks and Tourism	6/30/00
Department of Parks and Tourism - History Commission	6/30/00
Auditor of State	6/30/00
Auditor of State - Disbursing Officer	6/30/00
County and Municipal Aid	6/30/00
Department of Rural Services - Two-Year Period Ended	6/30/00
Arkansas State Building Services	6/30/00
Disabled Veterans Service Office	6/30/00
Arkansas Oil and Gas Commission	6/30/00
Arkansas Public Service Commission	6/30/00
Arkansas Public Service Commission - Tax Division	6/30/00
Department of Education - Arkansas School for the Deaf	6/30/00
Department of Finance and Administration - Revenue Division - Expenditures	6/30/00
Arkansas Beef Council	6/30/01
Arkansas Soybean Promotion Board	6/30/01
Arkansas Livestock Show Association	12/31/00

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FROM: Secretary of State  
Arkansas Register Division  
State Capitol, Room 026  
Little Rock, AR 72201-1094

Presorted Standard  
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