



Jeff Landry  
Attorney General

**State of Louisiana**  
DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
P.O. BOX 94005  
BATON ROUGE  
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September 26, 2023

J. Arthur Smith, III  
Smith Law Firm  
830 North St.  
Baton Rouge, LA 70802  
Email: [jasmith@jarthursmith.com](mailto:jasmith@jarthursmith.com)

RE: Louisiana Board of Pardons

Dear Mr. Smith:

We received your correspondence dated September 26, 2023, wherein you purport to represent the Louisiana Board of Pardons ("Board"). You state that the Board determined that the Attorney General's suit against the Board and its members constitutes a concurrent conflict of interest in violation of Rule 1.7 of the Rules of Professional Conduct and the Board does not waive the conflict. There is no conflict. Had you performed any legal research on this issue, you would know that the Attorney General's unique status requires accommodation, not exemption under the rules of professional conduct. Your letter indicating that a conflict exists calls into question your competency as a lawyer.

The Attorney General for the State of Louisiana derives his authority from the Constitution. The Attorney General is the chief legal officer charged with the assertion and protection of the rights and interests of the State of Louisiana, its taxpayers and citizens, and he has a sworn duty to uphold the Constitution and laws of this state. The Attorney General has the authority to institute, prosecute, or intervene in any civil action or proceeding as necessary for the assertion or protection of any right or interest of the State of Louisiana. La. Const. art. IV, § 8; *see also* La. R.S. 13:5036. The Attorney General has the authority upon the written request of a district attorney, to advise and assist in the prosecution of any criminal case. La. Const. art. IV, § 8. The Attorney General also is specifically mandated to enforce the Louisiana Open Meetings Law upon receipt of complaints where alleged violations of those laws occurred. La. R.S. 42:25(A). As a result of these multiple duties, the Attorney General's Office takes necessary safeguards between divisions and sections to manage any perceived conflicts, and attorneys have been trained on how to handle these matters.

On August 16, 2023, the Attorney General, in the capacity as an enforcer of the Open Meetings Law, received a complaint from Gracie Richard Armstead, alleging a violation of the Open Meetings Law. The Attorney General's Civil Division found no evidence that the Board noticed or held meetings to reconsider applications. The Attorney General's Civil Division on behalf of the State of Louisiana filed an enforcement action against the Board, pursuant to La. R.S. 42:25. This provision provides that the Attorney General "shall" institute proceedings upon a complaint filed with him, unless written reasons can be given as to why the suit should not be filed. The Civil

Division will continue to represent the State's interests in enforcing the Open Meetings Law as mandated under Louisiana statutes.

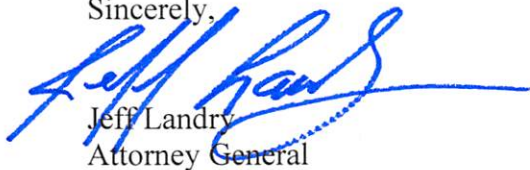
There is no constitutional or statutory mandate for the Attorney General's Office to represent the Board. As a courtesy, there has been a longstanding practice of the Attorney General providing an Assistant Attorney General to provide general advice and legal representation as needed. This arrangement was in part to avoid any perceived conflicts between the Board and the Department of Public Safety and Corrections, which may otherwise exist if the Department of Public Safety and Corrections' lawyers represent the Board. The Attorney General's Office is not representing the Board in connection with the clemency applications, nor is the Attorney General's Office representing the Board in connection with any of the Open Meetings Law lawsuits pending in the 19<sup>th</sup> Judicial District Court. In a letter dated September 20, 2023, Assistant Attorney General Grant Willis advised the Board that it would be prudent for it to retain outside counsel to defend it in connection with litigation, and I have expressed my willingness to approve outside counsel for the Board.

Courts have recognized the unique nature of the Attorney General's Office. Due to the multiple duties imposed upon the Attorney General's Office by the constitution and state law, the ethical rules for private law firms are not necessarily applicable to the Attorney General's Office. Otherwise, every employee, department, and appointed or elected official in state government could raise a potential conflict if it ever received legal services from the Attorney General. Such a result would have a chilling effect on the duties and powers constitutionally and legally bestowed upon the Attorney General. The Attorney General would constantly be prevented from performing his legal duties as the state's chief legal officer.

Since you are familiar with the Rules of Professional Conduct, you know that you personally have a non-waiveable conflict, which you failed to disclose to us. Moreover, you assumed representation of the Board prior to obtaining the necessary approvals for state contracts even from the Board itself. We observed the Board's meeting yesterday—the parts my office and the public were permitted to observe. The only item on the agenda was hearings on applications. Your contract was not on the agenda, nor was it voted on by the Board. And the open meetings enforcement actions were not on the agenda; therefore, your correspondence to my office is improper as you do not have authority to represent the Board.

You are not authorized to serve as legal counsel. My office can appoint special counsel for the Board if needed or the Department of Public Safety and Corrections attorneys can handle the matters in-house.

Sincerely,



Jeff Landry  
Attorney General