

Opinion No. 2013-055

July 12, 2013

The Honorable John T. Vines
State Representative
123 Market Street
Hot Springs, Arkansas 71901-5308

Dear Representative Vines:

You have requested my opinion on several questions regarding how the Arkansas Freedom of Information Act (FOIA) relates to a certain private, non-profit corporation. Specifically, you ask the following three questions:

1. Is Community Counseling Services, Inc. (“CCS”) governed by the Arkansas Freedom of Information Act, codified at A.C.A. 25-19-101 -107 (2002 Replacement) [*sic*]?^[1]
2. If yes, is CCS subject to the FOIA with respect only to certain activities, or is it subject to the FOIA with respect to all of its activities?
3. If CCS is subject to the FOIA only with respect to certain activities, which activities are subject to the FOIA?

RESPONSE

As I indicated in my June 4, 2013 letter to you confirming receipt of your opinion request, I cannot issue opinions on matters that are the subject of litigation. These precise questions relating to this precise entity are being litigated in Garland County Circuit Court in *Ouachita Regional Counseling and Mental Health Center*,

¹ The FOIA is codified at A.C.A. §§ 25-19-101 to –110 (Repl. 2011). Further, the FOIA was amended by Acts 235 and 411 of 2013, which have not yet been codified.

Inc., d/b/a Community Counseling Services, Inc. v. Singleton, CV-13-175 III, which was filed on February 28, 2013.

To avoid encroaching upon exclusively judicial prerogatives, it has long been the policy of this executive-branch office to avoid rendering opinions on matters that are the subject of litigation.² Any opinion issued from my office would constitute executive comment on matters that are properly decided by a judicial body. I must therefore respectfully decline to opine on the questions you have posed.

Assistant Attorney General Ryan Owsley prepared this opinion, which I hereby approve.

Sincerely,

DUSTIN MCDANIEL
Attorney General

DM/RO:cyh

² *E.g.*, Op. Att’y Gen. 2009-112 (and opinions cited therein).