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Orange Beach, Alabama

June 15, 2018

Alabama Association of School Boards

Alabama's Ethics Law

By: Mark S. Boardman

The Basics of the Ethics Law:

- **Definition of “Public Official”** Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities . . . *Alabama Code § 36-25-1(27)*
- No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive anything for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value. *Alabama Code § 36-25-7(a)*
- No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain. *Alabama Code § 36-25-5(a)*
- No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee . . . *Alabama Code § 36-25-5(c)*
- No person shall solicit a public official or public employee to use or cause to be used

equipment, facilities, time, materials, human labor, or other public property for such person's private benefit or business benefit, which would materially affect his or her financial interest, except as otherwise provided by law. *Alabama Code § 36-25-5(d)*

- No public official or public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity. *Alabama Code § 36-25-5(e)*
- All public employees required to file the Statement of Economic Interests requested by Section 36-25-14, no later than May 1, 2011, shall participate in an online educational review of the Alabama Ethics Law provided on the official website of the commission. Employees hired after January 1, 2011, shall have 90 days to comply with this subsection. Evidence of completion of the educational review shall be provided to the commission via an electronic reporting system provided on the official website. *Alabama Code § 36-25-4.2(3)*

Scenario Regarding Publicity. A high school principal has cancelled the prom. The principal has good reasons to do so, but the press reports that the principal has cancelled the prom for _____ (fill in the blank). Litigation ensued. Fortunately, your Board won.

You are writing a book. Can you include a chapter about your experiences as a Board member? Some of the information will include student names and other publicly available, but privacy-protected student information. If you do so, will you violate the Ethics Act?

Sources: Alabama Code § 36-25-8; Ethics Commission Advisory Opinion No. 2009-003; Alabama Code §§ 12-16-214 thru 216.

Scenario Involving Private Use of Public Facility. A mid-level employee invites you to a Tupperware party at her school starting at 3:45 p.m., after everyone has finished working. What do you do?

Sources: Alabama Code § 36-25-5(c); Alabama Ethics Commission Advisory Opinion No. 96-59.

Scenario Involving Solicitation. You decide to run the United Way campaign for the Board. Can you?

Sources: Alabama Code § 36-25-5(c) and 5(e).

Scenario Involving Mandatory Reporting. You have learned that an employee had a Tupperware party at a school. Or you have learned that your high school principal is running the United Way campaign. Do you have an obligation to do anything?

Source: Alabama Code § 36-25-17.

Scenario Involving Friends. You are a great person. You have a great spouse and even greater children. As a Board member you know lots of big wigs. One of your adult children has decided to be a lobbyist. Can you introduce that child to friends who work for government agencies and all the other big wigs you know?

Sources: Alabama Code §§ 36-25-5.1, 36-21-1(15) and (34)(a) and (b)(3) and (6); Advisory Opinion No. 2015-11.

Scenario Regarding Found Money.

A. You go to a Board meeting. You find a sealed envelope on your desk in the Board chamber, which says “Thanks for your help” but has no name, address, or identifying information. You open the envelope. Can you keep what is inside?

B. You go to a Board meeting. You find, on your desk in the Board chamber, a sealed envelope without anything written on it, without any identifying information, and you have no idea where it came from. Can you keep what is inside?

Sources: Alabama Code §§ 36-25-1(7), (14), (15), (17), (26), and (27). 36-25-5(a).

Scenario Involving Football Tickets. You have been offered free tickets to a football game, the face value of which is less than \$25.00. Can you take the tickets?

Sources: Alabama Code §§ 36-25-7(a) (which applies to the person who offers you the tickets), 36-25-5(a) (which applies to you receiving it), 36-25-1(34)(a) (which defines a ticket as a thing of value), 36-25-1(34)(b)(8) and (14); Advisory Opinion Nos. 99-16, 2011-13, 2002-25, and 2008-15.

Scenario Involving Vendors. Your company has done business with the Board of Education for years. Now you are on the Board of Education. Your company is the only place the Board of Education can obtain the product/service, without exorbitant additional expense. Does your agreement to serve on the Board of Education mean the Board can no longer do business with your company and must spent exorbitant amounts to obtain the product/service?

Sources: Alabama Code §§ 36-25(1)(27), 36-25-5(a), 36-25-(9)(c), 36-25-8, 11-43-12, 41-16-60; Advisory Opinion No. 2013-006.

Scenario Involving Retirement. Your board’s special education coordinator retires - - finally! Congratulations after many long years of service. But this retiree gets bored. Here are two scenarios:

A. This retiree worked with the Special Olympics. The retiree also became good friends with a local trophy shop owner, from whom retiree bought Special Olympics trophies for the students. Now the owner has offered the retiree a job, part-time, upon retirement. Can the retiree take the job? The Board still buys from the trophy company.

B. Your board works jointly with a neighboring board on special education. The special education coordinator takes a part time job with that other board. Can the retiree negotiate, on behalf of the new board, with you and your board?

Sources: Alabama Code § 36-25-13; Advisory Opinion Nos. 2015-12, 2014-01, and Reconsideration of Advisory Opinion No. 98-44.

Scenario Involving the Two-Year Revolving Door. Your Board’s special education coordinator has announced plans to retire. But the new special education coordinator will not be able to come onboard until the next fiscal year, October 1 or later. But, for the good of the students, your Board needs an active special education coordinator. So, can the retiree work very little, only 28 hours a week, as an

independent contractor consultant?

Sources: Alabama Code § 36-25-13; Advisory Opinion No. 2013-004 and Reconsideration of Advisory Opinion 98-44.

Should you have any questions about any of the above, you can reach me at (205) 678-8000, or via email at mboardman@boardmancarr.com.

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