

Lessons Learned from 2017

Every time I speak to a group, they always want to know what the main thing is that people in public service are doing wrong. Before I get to that, let me explain how most people in public service are doing things correctly in relation to the Ethics laws of our state.

The Commission has around 55,000 Statements of Economic Interest (SEI) filed with our office annually. Last year, of the required filers, only 1% refused to file and those individuals have been either fined, referred for prosecution, or both. The number of SEIs filed with us gives you an indication of how many public employees and officials there are out there. Last year, we had 517 complaints alleging violations of either the Ethics Act or Fair Campaign Practices Act filed with our office. Even though this number may seem large, it represents only a small percentage of people when you consider how many people are subject to the Ethics laws. Of those cases filed, 59 were either resolved through the imposition of fines or referred for prosecution to the Office of the Attorney General or the appropriate District Attorney. This means that around 89% of the cases filed with us were found to lack merit or did not allege violations of either the Ethics Act or the Fair Campaign Practices Act. All of this data taken together shows us that the overwhelming majority of people subject to the Ethics Act are doing the right thing.

With respect to the cases where we found violations, all but **THREE** of them involved violations of the same Code of Alabama section:

§ 36-25-5. Personal use of office

- (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.
- (b) 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 as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy. Provided, however, nothing in this subsection shall be deemed to limit or otherwise prohibit communication between public officials or public employees and eleemosynary or membership organizations or such organizations communicating with public officials or public employees.

Using facts from actual cases we processed in 2017, we have developed some basic rules to keep in mind. First, you cannot use your official position to benefit yourself, your family members, or businesses with which you and/or they are associated. This means that as a general rule you cannot steer official business to your family members or companies your family owns or works for. If you are a public official or employee you are restricted in terms of doing private business with the public entity that employs you or that you represent. You cannot use official resources (computer, supplies, your subordinate staff, official postage, copiers, vehicles) to help you, your family members, or companies you or your family owns or works for to make money or manage outside business interests.

Some other basic rules to remember based on the cases we saw come through the office last year are related to the “revolving door” provision of the Ethics Act. Simply put, once you leave your public employer, for two years you may not go to work for a private business or an individual you audited or investigated while you were a public employee. You may not represent your new employer before your old public sector employer for two years. You cannot use confidential information learned through your public position to benefit anyone. Finally, if either you or a family member has outside work which pays you or them from public money (e.g., outside contract work, grants, etc. paid for with public money), then you have to file those contracts with the Ethics Commission within 10 days of the date they are entered.

These rules came from the cases in which we found public servants to be in violation of the law. They in no way cover all of the issues our office deals with on a daily basis or the hundreds of questions we’re asked on many issues contained in the Ethics and Campaign Finance laws which are not addressed here. Our office is happy to work with you and deal with any issues you may have related to ethics or campaign finance compliance (which we know can get confusing) through either our informal opinion process or our formal opinion process. If you’ll remember these basic rules, however, it will go A LONG WAY in helping you stay out of trouble in 2018. Helping you know the rules and stay out of trouble is our primary goal. Please contact our office at any time if we can be of service to you.



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