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Guidelines for Public Officials and Employees

The purpose of these guidelines is to inform Public Officials and Employees of key provisions and prohibitions in the Revised Ethics Law.

These guidelines merely provide an overview of the law and, in no way, are intended to be a comprehensive review of the Ethics Law. The Ethics Law may be seen in its entirety on our website: www.ethics.alabama.gov. For a more comprehensive review, you can view our training video which can be found on our website as well. For further information or for any questions you may have, see our contact information on the last page of these guidelines.

Questions on matters concerning election finance laws to regulate and report the raising of campaign funds and expenditures, as well as questions relating to PAC-to-PAC transfers and double-dipping prohibitions, should be directed to the Office of the Attorney General (334.242.7300) and the Office of the Secretary of State (334.242.7200), as these matters are now dealt with under *The Fair Campaign Practices Act* and other recent acts.

Who Are Public Officials and Public Employees?

A **Public Official** is:

> "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, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-13-40."

A **Public Employee** is:

> "Any person employed at the state, county, or municipal level of government or their instrumentalities... For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee's income."

PERTINENT LAW

PERSONAL USE OF OFFICE – Section 36-25-5(a) states:

> "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."

Section 36-25-5(b) states:

> "Unless prohibited by the Constitution of Alabama of 1901, nothing herein shall be construed to prohibit a public official from introducing bills, ordinances, resolutions, or other legislative matters, serving on committees, or making statements or taking action in the exercise of his or her duties as a public official. A member of a legislative body may not vote for any legislation in which he or she knows or should have known that he or she has a conflict of interest."

Section 36-25-5(c) states:

> "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 17-5-2, 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."

Section 36-25-5(e) states:

> "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."

CONTRIBUTIONS – Section 36-25-6 states:

> "Contributions to an office holder, a candidate, or to a public official's inaugural or transitional fund shall not be converted to personal use."

SOLICITATION BY OFFICIAL OR EMPLOYEE – Section 36-25-7(a) states:

"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."

Section 36-25-7(b) states:

"No public official or public employee shall solicit or receive anything for himself or herself or for a family member of the public employee or family member of the public official for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value."

CONFIDENTIAL INFORMATION – Section 36-25-8 states:

"No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business."

CONFLICT OF INTEREST – Section 36-25-9(c) states:

"No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest."

COMPENSATED REPRESENTATION – Section 36-25-10 states:

"If a public official or public employee, or family member of the public employee or family member of the public official, or a business with which the person is associated, represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, notice of the representation shall be given within 10 days after the first day of the appearance. Notice shall be filed with the commission in the manner prescribed by it. No member of the Legislature shall for a fee, reward, or other compensation represent any person, firm, or corporation before the Public Service Commission or the State Board of Adjustment."

PUBLIC CONTRACTS – Section 36-25-11 states:

"Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds unless the contract has been awarded through a process of competitive bidding and a copy of the contract is filed with the commission. All such contract awards shall be made as a result of original bid takings, and no awards from negotiations after bidding shall be allowed. A copy of each contract, regardless of the amount, entered into by a public official, public employee, a member of the household of the public employee or the public official, and any business with which the person is associated shall be filed with the commission within 10 days after the contract has been entered into."

REVOLVING DOOR – Section 36-25-13 states:

"(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity."

"(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency."

"(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual."

"(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in

Section 36-25-13, cont.

which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment."

LOBBYIST GIFTS – Section 36-25-5.1 states:

"(a) No lobbyist, subordinate of a lobbyist, or principal shall offer or provide a thing of value to a public employee or public official or to a family member of the public employee or family member of the public official; and no public employee or public official or family member of the public employee or family member of the public official shall solicit or receive a thing of value from a lobbyist, subordinate of a lobbyist, or principal. Notwithstanding the foregoing, a lobbyist, or principal may offer or provide and a public official, public employee, or candidate may solicit or receive items of de minimis value."

ETHICS TRAINING – Section 36-25-4.2 states:

"At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists...

Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness...

All public employees required to file the Statement of Economic Interests required 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."

ELECTRONIC DATABASE SEARCH – Section 36-25-4.3 states:

"The commission, by April 1, 2012, shall implement and maintain each of the following:

Section 36-25-4.3, cont.

(1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.

(2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:

a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain."

EMPLOYMENT/CONTRACT DISCLOSURE – Section 36-25-5.2 states:

"(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011, shall notify the commission of such employment or contract by September 13, 2011."

Definition of Economic Development Function is:

"Any function reasonably and directly related to the advancement of a specific, good-faith economic development or trade promotion project or objective."

Definition of Educational Function is:

"A meeting, event, or activity held within the State of Alabama, or if the function is predominantly attended by participants from other states, held within the continental United States, which is organized around a formal program or agenda of educational or informational speeches, debates, panel discussions, or other presentations concerning matters within the scope of the participants' official duties or other matters of public policy, including social services and community development policies, economic development or trade, ethics, government services or programs, or government operations, and which, taking into account the totality of the program or agenda, could not reasonably be perceived as a subterfuge for a purely social, recreational, or entertainment function."

Definition of Widely Attended Event is:

"A gathering, dinner, reception, or other event of mutual interest to a number of parties at which it is reasonably expected that more than 12 individuals will attend and that individuals with a diversity of views or interest will be present."

Definition of De Minimis is:

"A value of twenty-five dollars ($25) or less per occasion and an aggregate of fifty dollars ($50) or less in a calendar year from a single provider..." (This definition shall become effective on August 1, 2012, Act 2012-433.)

DO'S and DON'T'S UNDER THE NEW ETHICS LAW

I. DON'T'S

1. Don't ... use your official position to obtain personal gain for yourself or family member or any business with which you are associated. Section 36-25-5(a)

2. Don't ... as a member of a legislative body, vote for any legislation in which you know or should have known that you have a conflict of interest. Section 36-25-5(b)

3. Don't ... use or cause the use of equipment, facilities, time, materials, human labor, or other public property under your discretion or control for the private benefit or business benefit of you, any other person, or principal campaign committee (defined in section 17-5-2), which would materially affect your financial interest. Section 36-25-5(c)

4. Don't ... solicit a "thing of value" from a subordinate or person or business with whom you directly inspect, regulate, or supervise in your official capacity other than in the ordinary course of business. Section 36-25-5(e)

5. Don't ... convert to personal use contributions to your inaugural or transitional fund. Section 36-25-6

6. Don't ... solicit or receive anything for yourself or a family member for the purpose of corruptly influencing official action. Section 36-25-7(b)

7. Don't ... solicit or receive any money in addition to that received in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which you are a member. Section 36-25-7(d)

8. Don't ... use or disclose confidential information gained in the course of or by reason of your position in any way that could result in financial gain, other than your regular salary, for yourself, a member of your family, or any other person or business. Section 36-25-8

9. Don't ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated. Section 36-25-9(a)

10. Don't ... you, a member of your household, or a business with which you are associated, enter into any contract to provide goods or services which is to be paid in whole or in part out of state, county, or municipal funds, unless the contract complies with Alabama competitive bidding laws and a copy of the contract is filed with the Ethics Commission within 10 days after the contract has been entered into. Section 36-25-11

11. Don't ... offer, give, solicit, or accept a "thing of value" to or from a member or employee of a governmental agency, board, or commission that regulates a business with which you are associated, other than in the ordinary course of business. Section 36-25-12

12. Don't ... serve for a fee as a lobbyist or otherwise represent clients, including your employer, before the board, agency, commission, department, or legislative body, of which you are a former member for a period of two years after you leave such membership, unless you are a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity. Section 36-25-13(a)

13. Don't ... enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which you were a member or employee for a period of two years after you leave the membership or employment of such governmental agency. Section 36-25-13(c)

14. Don't ... solicit or accept employment with a private business, corporation, partnership or individual which you formerly directly regulated, audited or investigated, within two years of your departure from such employment. Section 36-25-13(d)

15. Don't ... act as an attorney for any person other than yourself or the state, or aid, counsel, advise, consult or assist in representing any other person in a matter in which the state is a party, or has a direct and substantial interest, and in which you participated personally and substantially as a public official or was within your official responsibility, for a period of two years after termination of your state office. Section 36-25-13(e)

16. Don't ... solicit any lobbyist to give anything whether or not the thing solicited is a thing of value to any person or entity for any purpose other than a campaign contribution. Section 36-25-23(b)

17. Don't ... assume that you have no responsibilities under the Ethics Law even if you do not fit within the above categories, because, as shown below, any "person" can violate the Ethics Law for soliciting certain unlawful acts under the law.

18. Don't ... 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 your private benefit or business benefit which would materially affect your financial interest. Section 36-25-5(d)

19. Don't ... offer or give to a public official or public employee or family member of such person anything for the purpose of corruptly influencing official action. Section 36-25-7(a)

20. Don't ... serve as a member or employee of a state, county, or municipal regulatory board or commission or other body that regulates any business with which you are associated, except certain persons in the real estate field and other state-licensed professionals serving on certain boards and commissions. Section 36-25-9(a) and (b)

21. Don't ... knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch for the purpose of influencing legislation. Section 36-25-26(a)

22. Don't ... knowingly cause a document containing a false statement to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth for the purpose of influencing legislation. Section 36-25-26(b)

23. Don't ... accept a gift valued at more than $25, or $50 cumulatively, in a calendar year from any single provider. (Amount effective August 1, 2012, Act 2012-433)

II. DO'S

1. Do ... introduce bills, ordinances, resolutions, or other legislative matters, serve on committees, or make statements or take action in the exercise of your duties as a public official, unless prohibited under the Constitution of Alabama. Section 36-25-5(b)

2. Do ... know that as a member of a legislative body you may not vote for any legislation in which you know or should have known that you have a conflict of interest. Section 36-25-5(b)

3. Do ... file notice with the Ethics Commission if you, a member of your family, or a business with which you are associated represents a client or constituent for a fee before any quasi-judicial board or commission, regulatory body, or executive department or agency, within 10 days of the first day of the appearance. Section 36-25-10

4. Do ... file with the Ethics Commission a copy of any contract that you, a member of your household, or a business with which you are associated enter into, which is to be paid in whole or in part out of state, county or municipal funds, within 10 days after the contract has been entered into. Section 36-25-11

5. Do ... file a statement of economic interests with the Ethics Commission no later than April 30 of each year (if appointed or a public employee, then file only if your base pay is greater than $75,000 per year). Section 36-25-14 (Threshold of $75,000 will become effective on August 1, 2012, Act 2012-509)

6. Do ... if you are an election official... notify the Ethics Commission within five days of your receipt of a declaration of candidacy or your nomination of a candidate notify the Commission of the name of the candidate and the date on which the person became a candidate or was nominated as a public official. Section 36-25-15

7. Do ... make it a point to know the new laws. As always, ignorance of the law is not a defense. If you are a private citizen who happens to be an attorney, your responsibilities are even greater. You have a responsibility to your clients who may be construed as public officials or public employees or lobbyists to know the law and advise them accordingly.

8. Do ... when you, or a business with which you are associated, represent for a fee any person before a regulatory body of the Executive Branch, report to the Ethics Commission the name of any adult child, parent, spouse, brother or sister who is a public official or public employee of that regulatory body of the Executive Branch. Section 36-25-16(a).

9. Do ... when you, or any business with which you are associated, enter into a contract for the sale of goods or services to the State of Alabama, any county or municipality and any of their respective agencies in amounts greater than $7,500, report to the Ethics Commission the names of any adult child, parent, spouse, brother, or sister who is a public official or public employee of the agency or department with whom the contract is made. Section 36-25-16(b).

(Not applicable to any contract for the sale of goods or services awarded through a process of public notice and competitive bidding -- Section 36-25-16(c))

10. Do ... if you are not a "lobbyist" under the Ethics Law and negotiate or attempt to negotiate a contract, sell or attempt to sell goods or services, engage or attempt to engage in a financial transaction with a public official or public employee in their official capacity and expend in excess of $250 in a calendar day on such person, file a detailed quarterly report of the expenditure with the Ethics Commission. Section 36-25-19(b)

11. Do ... understand that all "lobbyist" reports filed pursuant to Sections 36-25-18 to 36-25-20, inclusive, are public records and shall be made available for public inspection via the Commission's website. Section 36-25-21 and 36-25-4.3

Specifically Governmental Agency Heads

1. Do ... file reports with the Ethics Commission within ten days on any matters that come to your attention in your official capacity which constitute a violation of the Ethics Act. Section 36-25-17(a)

2. Do ... cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the Ethics Commission. Section 36-25-17(b)

QUESTIONS AND ANSWERS

QUESTION: Who must file a Statement of Economic Interests Form?

ANSWER: Section 36-25-14 states:

"(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission...by each of the following:

(1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.

(2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is seventy-five thousand dollars ($75,000) or more annually. (Effective August 1, 2012)

Section 36-25-14, cont.

(3) All candidates, simultaneously with the date he or she becomes a candidate as defined in Section 17-5-2, or the date the candidate files his or her qualifying papers, whichever comes first.

(4) Members of the Alabama Ethics Commission; appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards).

(5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.

(6) Chief clerks and chief managers.

(7) Chief county clerks and chief county managers.

(8) Chief administrators.

(9) Chief county administrators.

(10) Any public official or public employee whose primary duty is to invest public funds.

(11) Chief administrative officers of any political subdivision.

(12) Chief and assistant county building inspectors.

(13) Any county or municipal administrator with power to grant or deny land development permits.

(14) Chief municipal clerks.

(15) Chiefs of police.

(16) Fire chiefs.

(17) City and county school superintendents and school board members.

(18) City and county school principals or administrators.

(19) Purchasing or procurement agents having the authority to make any purchase.

Section 36-25-14, cont.

(20) Directors and assistant directors of state agencies.

(21) Chief financial and accounting directors.

(22) Chief grant coordinators.

(23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.

(24) Each employee of the Judicial Branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial or other similar positions.

(25) Every full-time public employee serving as a supervisor."
(Effective August 1, 2012, Act Number 2012-509)

QUESTION: When must a Statement of Economic Interests be filed?

ANSWER: A statement of economic interest must be filed with the commission no later than April 30 of each year covering the preceding calendar year.

QUESTION: What information is required to be included in the Statement of Economic Interests?

ANSWER: The statement of economic interest must include the name, residential address, business; name, address, and business of the living spouse, and dependents of the public official or public employee required to file, as well as the name of living adult children, the name of parents and siblings, name of living parents of the spouse.

The statement must also contain a list of occupations to which one-third or more of working time was given during the previous reporting year by the public official, public employee, or his or her spouse.

The statement must contain a total combined household income of the public official or public employee from sources such as salaries, fees, dividends, profits, commissions, and other compensation. The income is to be listed and broken down into categories depending on the amount.

If the public official or employee or his or her spouse has, during the last reporting year, engaged in a business which provides legal, accounting, medical or health related, real estate, banking, insurance, educational, farming, engineering, architectural management, or other professional services, then the filing party is required to report the number of clients of the business in each of several categories. These categories are set out in Section 36-25-14(b)(4) of the Ethics Law.

QUESTION: What is a Conflict of Interest?

ANSWER: Section 36-25-1 states:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

QUESTION: What is NOT a Conflict of Interest?

ANSWER: Section 36-25-1 states:

"(8)...A conflict of interest shall not include any of the following:

a. A loan or financial transaction made or conducted in the ordinary course of business.

b. An occasional nonpecuniary award publicly presented by an organization for performance of public service.

c. Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for the personal attendance of a public official or public employee at a convention or other meeting at which he or she is

Section 36-25-1(8), cont.

scheduled to meaningfully participate in connection with his or her official duties and for which attendance no reimbursement is made by the state.

d. Any campaign contribution, including the purchase of tickets to, or advertisements in journals, for political or testimonial dinners, if the contribution is actually used for political purposes and is not given under circumstances from which it could reasonably be inferred that the purpose of the contribution is to substantially influence a public official in the performance of his or her official duties."

QUESTION: What is a Thing of Value?

ANSWER: Section 36-25-1 states:

"(33) THING OF VALUE. a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event, unsecured loan, other than those loans and forbearances made in the ordinary course of business, reward, promise of future employment, or honoraria or other item of monetary value."

QUESTION: What is NOT a Thing of Value?

ANSWER: Section 36-25-1(33) states:

"b. The term, thing of value, does not include any of the following, provided that no particular course of action is required as a condition to the receipt thereof:

1. A contribution under Chapter 5 of Title 17 or a contribution to an inaugural or transition committee.

2. Anything given by a family member of the recipient under circumstances which make it clear that it is motivated by a family relationship.

3. Anything given by a friend of the recipient under circumstances which make it clear that it is motivated by a friendship and not given because of the recipient's official position. Relevant factors include whether the friendship preexisted the recipient's status as a public employee, public

Section 36-25-1(33), cont.

official, or candidate and whether gifts have been previously exchanged between them.

4. Greeting cards, items, services with little intrinsic value which are intended solely for presentation such as plaques, certificates, and trophies, promotional items commonly distributed to the general public, and items or services of de minimis value.

5. Loans from banks and other financial institutions on terms generally available to the public.

6. Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all government employees.

7. Rewards and prizes given to competitors in contests or events including random drawings, which are open to the public.

8. Anything that is paid for by a governmental entity or an entity created by a governmental entity to support the governmental entity or secured by a governmental entity under contract, except for tickets to a sporting event offered by an educational institution to anyone other than faculty, staff, or administration of the institution.

9. Anything for which the recipient pays full value.

10. Compensation and other benefits earned from a non-government employer, vendor, client, prospective employer, or other business relationship in the ordinary course of employment or non-governmental business activities under circumstances which make it clear that the thing is provided for reasons unrelated to the recipient's public service as a public official or public employee.

11. Any assistance provided or rendered in connection with a safety or a health emergency.

12. Payment of or reimbursement for actual and necessary transportation and lodging expenses, as well as waiver of registration fees and similar costs, to facilitate the attendance of a public official or public employee, and the spouse of the public official or public employee, at an educational function or widely attended event of which the person is a primary sponsor. This exclusion applies only if the public official or public employee meaningfully participates in the event as a speaker

Section 36-25-1(33), cont.

or a panel participant, by presenting information related to his or her agency or matters pending before his or her agency, or by performing a ceremonial function appropriate to his or her official position; or if the public official's or public employee's attendance at the event is appropriate to the performance of his or her official duties or representative function.

13. Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public official's or public employee's participation in an economic development function.

14. Hospitality, meals, and other food and beverages provided to a public official or public employee, and the spouse of the public official or public employee, as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.

15. Any function or activity pre-certified by the Director of the Ethics Commission as a function that meets any of the above criteria.

16. Meals and other food and beverages provided to a public official or public employee in a setting other than any of the above functions not to exceed for a lobbyist twenty-five dollars ($25) per meal with a limit of one hundred fifty dollars ($150) per year; and not to exceed for a principal fifty dollars ($50) per meal with a limit of two hundred fifty dollars ($250) per year. Notwithstanding the lobbyist's limits herein shall not count against the principal's limits and likewise, the principal's limits shall not count against the lobbyist's limits.

17. Anything either (i) provided by an association or organization to which the state or, in the case of a local government official or employee, the local government pays annual dues as a membership requirement or (ii) provided by an association or organization to a public official who is a member of the association or organization and, as a result of his or her service to the association or organization, is deemed to be a public official. Further included in this exception is payment of reasonable compensation by a professional or local government association or corporation to a public official who is also an elected officer or director of the professional or local government association or corporation for services actually provided to the association or corporation in his or her capacity as an officer or director.

Section 36-25-1(33), cont.

18. Any benefit received as a discount on accommodations, when the discount is given to the public official because the public official is a member of an organization or association whose entire membership receives the discount."

QUESTION: Who may initiate a complaint with the Ethics Commission?

ANSWER: Section 36-25-4 states:

"(c) ...The complaint may only be filed by a person who has or persons who have credible and verifiable information supporting the allegations contained in the complaint. A complainant may not file a complaint for another person or persons in order to circumvent this subsection... A complaint may be initiated by a vote of four members of the commission.."

QUESTION: What is Personal Gain?

ANSWER: Section 36-25-5 states:

"...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."

QUESTION: What is an advisory opinion, and who may rely on an advisory opinion?

ANSWER: An advisory opinion is the commission's interpretation of a specific or hypothetical set of facts based on the law.

Section 36-25-4 states:

"(9) ... Such advisory opinions shall be adopted by a majority vote of the members of the commission present and shall be effective and deemed valid until expressly overruled or altered by the commission or a court of competent jurisdiction. The written advisory opinions of the commission shall protect the person at whose request the opinion was issued and any other person reasonably relying, in good faith, on the advisory opinion in a materially like circumstance from liability to the state, a county, or a municipal subdivision of the state because of any action performed or action refrained from in reliance of the advisory opinion. Nothing in this section shall be deemed to protect any person relying on the advisory

opinion if the reliance is not in good faith, is not reasonable, is not in a materially like circumstance. The commission may impose reasonable charges for publication of the advisory opinions and monies shall be collected, deposited, dispensed, or retained as provided herein."

QUESTION: What are the penalties for violation of the Ethics Law?

ANSWER: Section 36-25-14 states:

"(e) A person who intentionally violates any financial disclosure filing requirement of this chapter shall be subject to administrative fines imposed by the commission, or shall, upon conviction, be guilty of a Class A misdemeanor, or both.

Any person who unintentionally neglects to include any information relating to the financial disclosure filing requirements of this chapter shall have 90 days to file an amended statement of economic interests without penalty."

Section 36-25-26 states:

"No person, for the purpose of influencing legislation, may do either of the following:

(1) Knowingly or willfully make any false statement or misrepresentation of the facts to a member of the Legislative or Executive Branch.

(2) Knowing a document to contain a false statement, cause a copy of the document to be received by a member of the Legislative or Executive Branch without notifying the member in writing of the truth."

Section 36-25-27 states:

"(a)(1) Except as otherwise provided, any person subject to this chapter who intentionally violates any provision of this chapter other than those for which a separate penalty is provided for in this section shall, upon conviction, be guilty of a Class B felony."

"(4) Any person who knowingly makes or transmits a false report or complaint pursuant to this chapter shall, upon conviction, be guilty of a Class A misdemeanor and shall be liable for the actual legal expenses incurred by the respondent against whom the false report or complaint was filed.

(5) Any person who makes false statements to an employee of the commission or to the commission itself pursuant to this chapter without reason to believe the accuracy of the statements shall, upon conviction, be guilty of a Class A misdemeanor.

(6) Any person subject to this chapter who intentionally violates this chapter relating to secrecy shall, upon conviction, be guilty of a Class C felony.

(7) Any person subject to this chapter who intentionally fails to disclose information required by this chapter shall, upon conviction, be guilty of a Class A misdemeanor."

QUESTION: If a public employee files a complaint with the Ethics Commission against a public official or employer in the public sector, are there any measures to safeguard the employee making the complaint?

ANSWER: Yes.

Section 36-25-24 states:

"(a) A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee's compensation, terms, conditions, or privileges of employment based on the employee's reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation."

QUESTION: If a public employee makes a false complaint against an employer or a complaint that the employee knows lacks merit, is there any recourse on the part of the employer?

ANSWER: Yes.

Section 36-25-24 states:

"(b) Nothing in this chapter shall be construed in any manner to prevent or prohibit or otherwise limit a supervisor from disciplining, discharging, transferring, or otherwise affecting the terms and conditions of a public employee's employment so long as the disciplinary action does not result

Section 36-25-24, cont.

from or is in no other manner connected with the public employee's filing a complaint with the commission, giving truthful statements, and truthfully testifying."

QUESTION: Are there any administrative remedies available under the Ethics Law?

ANSWER: Yes.

Section 36-25-27 states:

"(b) The commission if petitioned or agreed to by a respondent and the Attorney General or district attorney having jurisdiction, by unanimous vote of the members present may administratively resolve a complaint filed pursuant to this chapter for minor violations. The commission may levy an administrative penalty not to exceed one thousand dollars ($1,000) for any minor violation of this chapter including, but not limited to, the failure to timely file a complete and correct Statement of Economic Interests. The commission shall, in addition to any administrative penalty, order restitution in the amount of any economic loss to the state, county, and municipal governments and their instrumentalities and such restitution shall when collected be paid by the commission, to the entity having the economic loss."

QUESTION: Who is charged with enforcing the Ethics Law?

ANSWER: Section 36-25-27 states:

"(c) The enforcement of this chapter shall be vested in the commission; provided however, nothing in this chapter shall be deemed to limit or otherwise prohibit the Attorney General or the District Attorney for the appropriate jurisdiction from enforcing any provision of this chapter as they deem appropriate."

QUESTION: What is the statute of limitations under the Ethics law?

ANSWER: Section 36-25-27 states:

> "(g) Any felony prosecution brought pursuant to this chapter shall be commenced within four years after the commission of the offense.
>
> (h) Any misdemeanor prosecution brought pursuant to this chapter shall be commenced within two years after the commission of the offense."

QUESTION: Am I required to receive training on the Ethics Law

ANSWER: Section 36-25-4.2 states:

> "At the beginning of each legislative quadrennium, the State Ethics Commission shall provide for and administer training programs on the State Ethics Law for members of the Legislature, state constitutional officers, cabinet officers, executive staff, municipal mayors, council members and commissioners, county commissioners, and lobbyists...
>
> Except as provided herein, attendance at any session of the training program shall be mandatory, except in the event the person is suffering a catastrophic illness...
>
> All public employees required to file the Statement of Economic Interests required 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."

QUESTION: Is information filed with the Ethics Commission made available via the Internet?

ANSWER: Yes.

> Section 36-25-4.3 states:
>
> "The commission, by April 1, 2012, shall implement and maintain each of the following:
>
> (1) A system for electronic filing of all statements, reports, registrations, and notices required by this chapter.

Section 36-25-4.3 states:

(2) An electronic database accessible to the public through an Internet website which provides at least the following capabilities:

a. Search and retrieval of all statements, reports, and other filings required by this chapter, excluding complaints made confidential by Section 36-25-4(b), by the name of the public official or public employee to which they pertain."

QUESTION: Must I file public disclosure information with the Ethics Commission regarding state or federal employment or contracts involving me or my spouse?

ANSWER: Yes.

Section 36-25-5.2 states:

"(b) Each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government, or who works for a company that receives 50% or more of its revenue from the state, shall notify the commission of such employment or contract within 30 days of beginning employment or within 30 days of the beginning of the contract. Additionally, each public official and the spouse of each public official, as well as each candidate and the spouse of each candidate, who is employed by the state or the federal government or who has a contract with the state or the federal government on August 14, 2011 shall notify the commission of such employment or contract by September 13, 2011."

As previously stated, these guidelines are intended to serve merely as an overview and not as a comprehensive review of the Ethics Law. If you have questions that were not answered or concerns that were not addressed by the guidelines, please review our website at: www.ethics.alabama.gov. On our website you will find the entire Ethics Law, all forms required to be filed under the statute and every advisory opinion rendered since 1995. If you have questions beyond those resources, please contact the Ethics Commission using the contact information below:

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