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ADVISORY OPINION NO. 2025-05

Felicia M. Brooks
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Public Official / Conflict of Interest

A member of a DHR County Board may not serve as a foster care provider in the same county where they serve on the County Board unless a different County Board approves, oversees, and otherwise regulates the services they provide as a foster parent.

There is no prohibition contained in the Ethics Act for a County Board member to serve as a CASA volunteer in the county they serve as a DHR County Board member.

Dear Ms. Brooks:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request and is limited to the application of the Ethics Act to these facts. There may be rules, regulations, or provisions outside the Ethics Act that apply to these facts, and you should consult the Attorney General's Office for additional guidance.

FACTS

The facts that have been presented to this Commission are as follows:

The County Boards of Human Resources are critical to establishing the management of the county DHR. It is essential that the County Board decision making does not give the appearance of impropriety. The Board duties include appointing the director of the county DHR, who serves at the Board's pleasure. In addition to appointing the county director, the County Board meets from time to time with the county director, points up unmet needs in the county, advises concerning economic conditions in the county which might affect the welfare program, assists in informing the citizens of the public welfare program, cooperates with other agencies, individuals and organizations in the community in the development of facilities designed for human betterment, and advises concerning changes which would make for a more effective and efficient public welfare program. Ala. Code § 38-2-7. "The principal duty of the board is to appoint a director of the county department of pensions and security, who serves at the pleasure of the board. A secondary duty of the board is to meet from time to time with the director and to advise him concerning matters which might make a more effective public welfare program." Moore v. Watson, 429 So. 2d 1036, 1037 (Ala. 1983). In light of its unique statutory framework, the Supreme Court of Alabama has held that all employees of the county offices of the Department of Human Resources are under the state merit system in the case of Williams v. James, 420 So. 2d 773 (Ala. 1982). Additionally, the Court explained:

The various sections of Chapter 2 create an interdependent DPS consisting of one administrative unit-the state-and 67 field agencies-the county departments. Indeed, Section 38-2-6 provides:

"The aim of the state department shall be the promotion of a unified development of welfare activities and agencies of the state and of the local governments so that each agency and each governmental institution shall function as an integral part of a general system."

Williams at 774.

DHR records are confidential under several state statutes, including Ala. Code §§ 26-14-8(c), 30-3-199, 38-2-6(8), 38-7-13, and 38-9-6(e). Juvenile court records are confidential under Ala. Code § 12-15-133. Board members may have limited access to confidential DHR and juvenile court information not available to the public should they receive complaints from county constituents about the county office. A board member would also have access to DHR's confidential information that is disclosed if the County Board needs to be in an executive session.

B. Role of Foster Parents

Foster parents are licensed by the county department of human resources (county DHR). A foster parent's home must meet certain requirements such as the "Minimum Standards for Foster Family Homes" and be re-approved every year to remain open and available to accept children from DHR. See Ala. Code § 38-7-8. An Individual Service Plan (ISP) Team determines the best placement to meet a child's needs from among the available foster homes. Foster parents have a significant and ongoing relationship with the county and its director. If the county DHR has concerns about a foster home, the county director is ultimately responsible for the administrative and executive duties for the county. See Ala. Code § 38-2-8(b).

County DHR funds are used to meet the foster child's needs. Once a child is placed in a home, the foster parent receives a monthly board payment based upon the child's age. See Ala. Admin. Code r. 660-5-28-.07(16). Medicaid also pays a specific amount for the child's medical needs, counseling, and therapy. A foster parent may request services that go above and beyond Medicaid's reimbursement rate for normal expenditures. If such a request is made, the County Director must approve or disapprove the foster parent's request for extraordinary expenses. Under certain circumstances the foster parents may adopt the foster child in their home and may receive an adoption subsidy. See Ala. Code § 26-10-25 and Ala. Admin. Code 660-5-28-.07(16). The County Director signs the consent to adopt children that are in DHR's care, including children placed in foster homes. The Director will sign the consent to adopt if it is in the child's best interest to be adopted by the foster parent. If it is not in the child's best interest, the Director will not sign the consent to adopt.

C. Role of CASA Advocates

The Alabama Court Appointed Special Advocates (CASA) Network serves as the parent organization that provides support, technical assistance, guidance and quality assurance to local county CASA programs. At the county level, a judge for a particular county may appoint a CASA volunteer through a court order to work with foster children when a child welfare case is filed in the juvenile or family court by the County Department of Human Resources (County DHR). When a CASA volunteer is assigned a case, they have extensive involvement with the child welfare case. CASA is involved in the county departments' confidential Individualized Service Plan meetings. They often submit written court reports directly to the Juvenile Court that contain recommendations about the child. CASA volunteers have a significant and ongoing relationship with the county department as well, and its director.

QUESTIONS PRESENTED

- (1) May a foster parent serve as a member of a County Board of Human Resources as an appointing authority in which they also serve as a foster parent in the same county?
- (2) If the answer is yes to question (1) above, are there limitations on the activities the foster parent board member may take as it relates to DHR? Can the board member vote on personnel matters as to the county director such as hiring and firing of the county director?
- (3) May an Alabama Court Appointed Special Advocates (CASA) volunteer serve as a member of a County Board of Human Resources as an appointing authority in which they also serve as a CASA for the juvenile court of the same county?
- (4) If the answer is yes to question (3) above, are there limitations on the activities the CASA board member may take as it relates to DHR? In particular, can the board member vote on personnel matters as to the county director such as hiring or firing of the county director?

ANALYSIS

The members of the County Boards of Human Resources are appointed public officials subject to the Ethics Act.¹ The County Boards hire and supervise the county director, who serves at their pleasure.² The county director performs “all administrative and executive duties and responsibilities of the county department in accordance with the rules and regulations of the state department, subject to the approval of the state board.”³ The County Boards are a regulatory body that regulates foster parents, and the county directors enforce those regulations.⁴ No public official, other than in the ordinary course of business, may solicit a thing of value from a subordinate or person whom he or she directly inspects, regulates, or supervises in his or her official capacity.⁵ A foster parent, regulated by the County Board, must obtain approval for various requests directly from the county director who the County Board supervises. Because of these regulatory and supervisory relationships, a member of a DHR County Board may not serve as a foster care provider in the same county where they serve as a board member unless a different DHR County

¹ Ala. Code §§ 36-25-1(27), 38-2-7.

² Ala. Code § 36-25-1(33) Supervisor. Any person having authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, or discipline other public employees, or any person responsible to direct them, or to adjust their grievances, or to recommend personnel action, if, in connection with the foregoing, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment.

³ Ala. Code § 38-2-8.

⁴ Ala. Code § 36-25-1(28): Regulatory body. A state agency which issues regulations in accordance with the Alabama Administrative Procedure Act or a state, county, or municipal department, agency, board, or commission which controls, according to rule or regulation, the activities, business licensure, or functions of any group, person, or persons.

⁵ Ala. Code § 36-25-5(e).

provider in the same county where they serve as a board member unless a different DHR County Board approves, oversees, and otherwise regulates the services they provide as a foster parent.⁶

The Alabama Court Appointed Special Advocates (CASA) Network consists of fifteen programs throughout Alabama and twenty-three counties have CASA programs.⁷ These are volunteer organizations that serve on a case-by-case basis by judicial appointment. Neither state nor county DHR statutes, rules, or regulations govern the activities of the CASA network, but CASA volunteers are required to abide by the same confidentiality requirements as DHR board members and employees regarding information provided them by DHR. The volunteers work closely with the county DHR offices to carry out their court-ordered appointments but are not accountable to the DHR County Board or director. Therefore, there is no prohibition contained in the Ethics Act for a County Board member to serve as a CASA volunteer in the county they serve as a DHR County Board member. There is no specific prohibition in the Ethics Act restricting a CASA volunteer who is also a DHR County Board member from participating or voting on personnel matters. However, should a situation that creates an unforeseen conflict of interest between a Board member's service to the Board and their service as a CASA volunteer arise, the Board member should ask for further guidance or could recuse and abstain from participating or voting in the case that created the conflict.

CONCLUSION

A member of a DHR County Board may not serve as a foster care provider in the same county where they serve as a board member unless a different DHR County Board approves, oversees, and otherwise regulates the services they provide as a foster parent.⁸

There is no prohibition contained in the Ethics Act for a DHR County Board member to serve as a CASA volunteer in the county they serve as a board member.

AUTHORITY

By 3/0 vote of the Alabama Ethics Commission on April 1, 2026.



J. David Dodd
Chair
Alabama Ethics Commission

⁶ See Advisory Opinion 2005-27.

⁷ <https://alabamacasa.org/about/#network>

⁸ See Advisory Opinion 2005-27.