



STATE OF ALABAMA ETHICS COMMISSION



COMMISSIONERS

J. David Dodd, Chair
George Pierce, Vice-Chair
Greg Pappas
David R. Pruet, III
Hon. Carole Smitherman (Ret.)

MAILING ADDRESS
P.O. BOX 4840
MONTGOMERY, AL
36103-4840

STREET ADDRESS
RSA UNION
100 NORTH UNION STREET
SUITE 104
MONTGOMERY, AL 36104

Thomas B. Albritton
Executive Director

TELEPHONE (334) 242-2997

FAX (334) 242-0248

WEB SITE: www.ethics.alabama.gov

August 5, 2026

ADVISORY OPINION NO. 2026-10

Daniel A. White, P.E., PMP
Deputy Director
Jefferson County Commission
Environmental Services Department

Member of the Board of Directors
Blount County Water Authority

Public Official / Public Employee / Family member of a Public Official or Public Employee / Use of Office for Personal Gain / Regulating a Business with which a Public Official or Public Employee is Associated / Thing of Value

The Ethics Act does not prohibit the family member of an individual serving as both public official and public employee from accepting ordinary-course employment with private engineering, construction, utility, vendor, contractor, subcontractor, or consulting firms that do business with, seek work from, are regulated by, or appear before the public entities with which the individual serving as both public official and public employee serves, provided that the individual serving as both public official and public employee recuses himself and is not otherwise involved in any aspect of any matter involving his family member or her employer and does not use his position, including any confidential information or public equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to obtain personal

gain for himself, his family member, or a business with which he is associated.

The Ethics Act permits the family member of a public official or public employee to seek or accept employment with a principal provided that the circumstances make it clear that the position would be provided for reasons unrelated to the public service of the family member who is a public official or public employee.

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.

Dear Mr. White:

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. This opinion applies only to the restrictions of the Ethics Act and applies prospectively only.

FACTS

Daniel A. White is the full-time Deputy Director of the Jefferson County Commission Environmental Services Department (JCESD). In that role, he has managerial and supervisory responsibilities involving capital improvement planning, engineering and construction contract management, and private development plan approval.

Mr. White routinely serves on panels that select engineering firms through a qualifications-based-selection process (QBS). He participates in contract negotiations and recommends contracts to the JCESD Director. He approves engineering, professional services, and construction invoices following subordinate review, recommends approval of change orders and work change directives,

makes project assignments, and indirectly manages inspection and construction oversight through subordinate employees.

Mr. White also directly negotiates the contract and manages the work performed under the Collection System Asset Management Program contract. He has authority to approve or reject sanitary sewer plans designed by private engineering firms for developers, after review by a plans examiner who reports through supervisory staff to him. He chairs the contractor prequalification committee that determines which contractors are eligible to bid on public works projects managed by JCESD. He also negotiates or recommends contracts involving utilities and intergovernmental or utility-related entities.

Mr. White also serves as a paid part-time member of the Board of Directors of the Blount County Water Authority. The Blount County Water Authority Board is a five-member board with duties that include setting policy, approving budgets, approving contracts, and monitoring system performance. Private-business matters before the Authority may include engineering consulting, construction services, business consulting, software, equipment, vehicles, and supplies.

Mr. White's daughter, Amelia White, currently resides in Mr. White's home. She is a full-time civil engineering student at the University of Alabama at Birmingham and is interested in summer, schoolyear, and future permanent employment with local engineering and construction firms. Mr. White states that he will not use his position to secure employment for a family member or to influence contracts for any firm that employs a family member.

QUESTIONS PRESENTED

1. Does the Ethics Act prohibit the family member of a public official and public employee from accepting ordinary-course employment with private engineering, construction, utility, vendor, contractor, subcontractor, or consulting firms that do business with, seek work from, are regulated by, or appear before the public entities with which the individual serving as both public official and public employee serves?
2. If a family member may be employed by such a firm, what conflict-avoidance, recusal, disclosure, and screening requirements apply when the family member is not assigned to work under the public official and public employee's authority, but the firm has work before either public entity?

3. What conflict-avoidance requirements apply when the family member is assigned to work that is directly or indirectly under the public official and public employee's authority?
4. How do these restrictions apply to direct subordinates and employees within the public official and public employee's line of supervision?
5. Does the analysis change when a dependent child becomes an independent adult child?

ANALYSIS

As the Deputy Director of the JCESD, Mr. White is a public employee. He is also a public official because of his position on the Board of Directors of the Blount County Water Authority. The Ethics Act prohibits public officials and employees from using their position to obtain personal gain for themselves, a family member, or a business with which they are associated.¹ A public employee's family members are limited to the employee's spouse and dependents.² A public official's family members are: "the spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, and a sibling and his or her spouse."³ The Ethics Act defines "dependent" as "Any person, regardless of his or her legal residence or domicile, who receives 50 percent or more of his or her support from the public official or public employee or his or her spouse or who resided with the public official or public employee for more than 180 days during the reporting period."⁴

Since Ms. White currently resides with her father, Mr. White, she is his "family member" for both his position with the JCESD and his position on the Board of the Blount County Water Authority. As a result, any business that employs Ms. White will become a business with which

¹ Ala. Code § 36-25-5(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.

² Ala. Code § 36-25-1(14): Family member of the public employee. The spouse or a dependent of the public employee.

³ Ala. Code § 36-25-1(15): Family member of the public official. The spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, a sibling and his or her spouse, of the public official.

⁴ Ala. Code § 36-25-1(10): Dependent. Any person, regardless of his or her legal residence or domicile, who receives 50 percent or more of his or her support from the public official or public employee or his or her spouse or who resided with the public official or public employee for more than 180 days during the reporting period.

Mr. White is associated.⁵ This does not extend to unpaid internships where Ms. White is not considered to be an employee of the business. After she leaves his residence for more than 180 days and no longer receives 50% or more of her support from Mr. White, she will no longer be considered his “family member” for the purposes of his position with the JCESD. However, she will continue to be his “family member” for the purposes of his position with the Blount County Water Authority because “family member of a public official” is defined more broadly than that of a public employee as described above.

The Ethics Act prohibits public officials and employees from using public equipment, facilities, time, materials, human labor, or other public property under their discretion or control for the private or business benefit of any person, which would materially affect their financial interest, unless otherwise provided by law or pursuant to a lawful employment agreement regulated by agency policy.⁶ The Act also prohibits anything from being offered, solicited, or received for the purpose of corruptly influencing official action. Ala. Code § 36-25-7. Further,

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.⁷

The Ethics Act states: “Unless expressly provided otherwise by law, no person shall 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 he is associated...”⁸ Also, “No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the

⁵ Ala. Code § 36-25-1(2): Business with which the person is associated. Any business of which the person or a member of his or her family is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business.

⁶ Ala. Code § 36-25-5(c): 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...

⁷ Ala. Code § 36-25-8.

⁸ Ala. Code § 36-25-9(a): Unless expressly provided otherwise by law, no person shall 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 he is associated. Nothing herein shall prohibit real estate brokers, agents, developers, appraisers, mortgage bankers, or other persons in the real estate field, or other state-licensed professionals, from serving on any planning boards or commissions, housing authorities, zoning board, board of adjustment, code enforcement board, industrial board, utilities board, state board, or commission.

member or family member of the member has any financial gain or interest.⁹ In Advisory Opinion No. 2006-05, the Commission rejected the argument that Ala. Code § 36-25-9(a) contains a strict prohibition that an individual may not be hired or maintain their employment with a regulating entity when they have a family member employed by a regulated entity. Rather, the Commission determined that the underlying issue was whether a conflict exists that cannot be resolved. The Commission stated: “While it clearly is an unavoidable conflict of interest for an individual to regulate himself or herself, a person who has a family member employed by a regulated entity may simply be removed from the transaction between the regulator and the regulated, thereby resolving the conflict of interest, and averting a violation of the law.”¹⁰

Therefore, Ala. Code § 36-25-9(a) does not prohibit Mr. White from continuing to serve as the Deputy Director of the JCESD or as a member of the Board of the Blount County Water Authority should Ms. White become employed by a business regulated by JCESD or the Blount County Water Authority. However, he may not be involved in any aspect of any matter involving his daughter or his associated business, regardless of whether she is personally assigned to that matter; he must recuse himself from the matter. This restriction does not apply to Mr. White’s subordinate employees. However, he may not direct or influence a subordinate’s handling of a matter involving his associated business in any way.

The Ethics Act also prohibits the family members of public officials and public employees from soliciting or receiving a “thing of value” from a lobbyist, subordinate of a lobbyist, or a principal.¹¹ A “thing of value” is: “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.”¹² Excluded from what is considered a “thing of value” is:

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.¹³

⁹ Ala. Code § 36-25-9(c).

¹⁰ Advisory Opinion No. 2006-05.

¹¹ Ala. Code § 36-25-5.1(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.

¹² Ala. Code § 36-25-1(34)(a).

¹³ Ala. Code § 36-25-1(34)(b)(10).

Therefore, if Ms. White seeks employment with a lobbyist, subordinate of a lobbyist, or principal (“A person or business which employs, hires, or otherwise retains a lobbyist...”¹⁴), the employment, compensation, and benefits must be provided in the ordinary course of employment under circumstances making clear that they are offered for reasons unrelated to Mr. White’s public service. This opinion assumes that any employment is bona fide, based on ordinary hiring criteria, compensated at ordinary and reasonable rates for the work performed, and not offered, solicited, enhanced, or conditioned because of Mr. White’s public position or any official action. If those facts are not clear, additional guidance should be sought. The Commission maintains a list of registered lobbyists and principals on its website.¹⁵

Finally, a copy of any contract entered into by a business with which Mr. White is associated by virtue of Ms. White’s employment, after that employment begins, that is to be paid in whole or in part with state, county, or municipal funds, must be filed with the Ethics Commission within 10 days after it is entered into.¹⁶

CONCLUSION

The Ethics Act does not prohibit the family member of an individual serving as both public official and public employee from accepting ordinary-course employment with private engineering, construction, utility, vendor, contractor, subcontractor, or consulting firms that do business with, seek work from, are regulated by, or appear before the public entities with which the individual serving as both public official and public employee serves, provided that the individual serving as both public official and public employee recuses himself and is not otherwise involved in any aspect of any matter involving his family member or her employer and does not use his position, including any confidential information or public equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to obtain personal gain for himself, his family member, or a business with which he is associated.

The Ethics Act permits the family member of a public official or public employee to seek or accept employment with a principal provided that the circumstances make it clear that the

¹⁴ Ala. Code § 36-25-1(24).

¹⁵ <https://ethics.alabama.gov/lobbyists.aspx>.

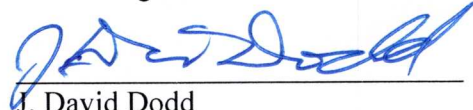
¹⁶ Ala. Code § 36-25-11: Unless exempt pursuant to Alabama competitive bid laws or otherwise permitted by law, no public official or public employee, or a member of the household of the public employee or the public official, and no business with which the person is associated shall enter into any contract 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.

position would be provided for reasons unrelated to the public service of the family member who is a public official or public employee.

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.

AUTHORITY

By 5/0 vote of the Alabama Ethics Commission on August 5, 2026.



J. David Dodd
Chair
Alabama Ethics Commission