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November 1, 2000

ADVISORY OPINION NO. 2000-56

Dwight M. Jett, Jr.
Attorney at Law/
Member, Decatur City Board of Education
431 East Moulton Street
Decatur, Alabama 35601

Personal Gain/Member Of Decatur City Board Of Education Receiving Accidental Death And Dismemberment Insurance Policy Through School Board's Membership In The Alabama Association Of School Boards.

It does not violate the Alabama Ethics Law, nor is it a use of position for personal gain, for a member of the Decatur City Board of Education to receive an Accidental Death and Dismemberment policy by virtue of the School Board's membership in the Alabama Association of School Boards.

Dear Mr. Jett:

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.

QUESTION PRESENTED

Would it violate the Alabama Ethics Law for a member of the Decatur City Board of Education to receive and accept an Accidental Death and Dismemberment Insurance policy through the Alabama Association of School Boards by virtue of the School Board's membership in that association?

FACTS AND ANALYSIS

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

Dwight M. Jett, Jr. has recently been elected to the Decatur City Board of Education. His school system is a member of the Alabama Association of School Boards (AASB). By virtue of the School Board's membership in AASB, Mr. Jett, as well as all School Board members, whose school systems are members of AASB, receive an Accidental Death and Dismemberment Insurance policy.

The Alabama Association of School Boards is a membership organization comprised of the various school systems around the State of Alabama. There are approximately 800 School Board members within the State of Alabama that are members of AASB.

Mr. Jett states that he did not pay any dues to AASB and that the dues are paid by the School Board.

In the information provided from AASB, the program "provides coverage for all school board members at no additional cost to you or your school board. If your local board is an AASB member, you automatically are insured. The AD&D coverage applies to any accident or injury to you while you are fulfilling your school board duties."

The policy clearly is limited to accidental deaths or injuries occurring while a covered School Board member is performing official School Board duties.

Mr. Jett is concerned that he and all other School Board members, whose school systems are members of AASB, are receiving a potential significant financial benefit due to the expenditure of public funds. Due to this, he has requested an opinion from the Commission.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) defines a public official as:

"(24) 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, 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 17-16-2."

Section 36-25-5(a) states:

“(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.”

In the facts before the Commission, the decision to join AASB is made by the School Board. It further appears that the Decatur City Board of Education was a member of AASB prior to Mr. Jett's election to that body. In addition to the Accidental Death and Dismemberment Insurance policy that the School Board members receive, there are other benefits that accrue to the School Board and the school system.

In addition, this is something that is offered to School Board members at no additional cost to the school system.

Based on the above law and the facts as provided, it would not violate the Alabama Ethics Law for a member of the Decatur City Board of Education to receive an Accidental Death and Dismemberment Insurance policy through his School Board's membership in the Alabama Association of School Boards.


CONCLUSION

It does not violate the Alabama Ethics Law, nor is it a use of position for personal gain, for a member of the Decatur City Board of Education to receive an Accidental Death and Dismemberment policy by virtue of the School Board's membership in the Alabama Association of School Boards.

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AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on November 1, 2000.



John H. Watson
Chair
Alabama Ethics Commission