



STATE OF ALABAMA ETHICS COMMISSION



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February 3, 2016

ADVISORY OPINION NO. 2015-17

Ms. Mandy C. Andrews
Program Manager, Staff Development
Alabama Department of Human Resources
683 Rosebury Road
Helena, Alabama 35080

Conflict Of Interest/State Employee With
The Alabama Department Of Human
Resources Teaching An Evening Class At
The University Of Montevallo

A State employee with the Alabama Department of Human Resources may teach an evening class at the University of Montevallo when the class being taught is not a part of the Title IV-E Subcontract between the University of Montevallo and the University of Alabama monitored by the employee, provided all activities relating to the coursework be conducted on her own time, whether afterhours, weekends, etc., and that there is no use of DHR or other public resources to assist her in teaching the course.

Dear Ms. Andrews:

The Alabama Ethics Commission is in receipt of your request for a formal Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May a State employee with the Alabama Department of Human Resources teach an evening class at the University of Montevallo?

FACTS AND ANALYSIS

At the outset, it should be pointed out that this opinion merely addresses the issue raised from the perspective of the Alabama Ethics Law and does not consider any other body of law outside the Ethics Act in its conclusion.

The facts as have been presented to us are as follows:

Mandy C. Andrews is the Program Manager for Staff Development for the Alabama Department of Human Resources (DHR). In this capacity, she reviews the Title IV-E Interagency Agreement between DHR and the University of Alabama, School of Social Work and routes the Agreement through the approval process. This Agreement includes subcontracts with various social work education programs in the state, including the University of Montevallo. The University of Montevallo's subcontract with the University of Alabama, School of Social Work, funds social work student stipends, child welfare related courses, faculty travel to child welfare conferences, and child welfare training workshops offered by the University of Montevallo. She reviews the subcontract to ensure all expenditures are Title IV-E related expenses. She does not sign the Title IV-E Agreement or the subcontracts.

Ms. Andrews states that her direct work with the University of Montevallo includes planning topics for the child welfare training workshops referenced above and organizing the registration process for DHR employees to attend. She also plans and organizes meetings for the Higher Education Consortium on Child Welfare. The Director of the University of Montevallo Social Work Program is a member of the Consortium. In addition, Ms. Andrews ensures that University of Montevallo stipend and field placement students are properly registered with DHR so that they receive mileage and risk management coverage.

As part of her job responsibilities, she is required to annually review the subcontract between the University of Montevallo and the University of Alabama to ensure that any classes/courses taught using Title IV-E funds meet the Federal Requirements of the Title IV-E Program. If she finds that the courses do not meet the standards, she must notify the University of Alabama so adjustments can be made to the budget.

The class Ms. Andrews has been asked to teach is **Human Behavior in the Social Environment I area of courses**. It is not a part of University of Montevallo's Title IV-E subcontract with the University of Alabama. It is a class not specific to the Social Work major and is offered to all students regardless of major. She will not be teaching any classes eligible for Title IV-E funding at the University of Montevallo or that are otherwise related to her work with DHR. All courses funded by the Title IV-E subcontract are upper level Social Work courses that are taught by full-time faculty.

Ms. Andrews acknowledges that she is a public employee as defined in Ala. Code § 36-25-1(26) (1975).

Ala. Code § 36-25-5(a) (1975) 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."

Ala. Code § 36-25-5(c) (1975) 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 17-22A-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."

The Ethics Law provides that public officials and public employees should have the same financial opportunities that are available to the general public, provided that a conflict of interest does not exist. See Ala. Code §§ 36-25-1(8) and 36-25-2(b) (1975).

This issue has frequently been addressed by the Ethics Commission. On October 4, 2006, the Commission rendered Advisory Opinion No. 2006-19, which held that:

“A Program Specialist with the Office of Adult Protective Services for the State Department of Human Resources may teach parenting, anger management, domestic violence and alternative behavior classes to clients recommended by the local court system, attorneys and local clergy, when this is not part of her job responsibilities with the Department of Human Resources (DHR), where there is no overlap between her outside employment and any services offered by the Department of Human Resources, and where there is no potential that DHR clients would be referred to her private business as clients; provided, that all activities relating to this employment are done on her own time, whether after-hours, weekends, etc.; and, that there is no use of any public equipment, time, materials, human labor or other public property under her discretion or control to either assist her in obtaining the opportunities or in performing the functions of the outside employment.”

Likewise, Advisory Opinion 2008-13 held that:

“A State Pardons and Paroles Probation Officer may teach a Court Referral Office DUI class in the county in which he supervises probationers; provided, that he does not teach the course if there are people supervised by the State Board of Pardons and Paroles participating in the course, or if the Board of Pardons and Paroles refers individuals to the Court Referral Office course.”

“A State Pardons and Paroles Probation Officer may teach a Court Referral Office DUI class in the county in which he supervises probationers; provided, that he does so on his own time, and that there is no use of Pardons and Paroles time, equipment, human labor or other resources to assist him in teaching the courses or in obtaining opportunities.”

This line of opinions goes back to December of 1995, when the Commission rendered Advisory Opinion No. 95-109. That opinion held that:

“A public employee who is employed full-time with the Houston County Department of Human Resources may accept part-time teaching employment with Troy State University at Dothan, so long as such employee does not use or cause to be used time, equipment, or services of his or her primary job in the part-time employment.”

In the facts before the Commission, while Ms. Andrews' job responsibilities with the Department of Human Resources involve a certain degree of involvement with the University of Montevallo through the University's subcontract with the University of Alabama, the course that Ms. Andrews has been asked to teach is unrelated to her job responsibilities with DHR and is not impacted by the subcontract or the approval or denial of Title IV-E funds and courses.

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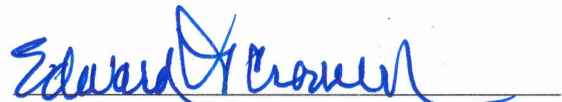
Based on the facts as provided and the above law, as far as the Ethics Act is concerned, a State employee with the Alabama Department of Human Resources may teach an evening class at the University of Montevallo when the class being taught is not a part of the Title IV-E Subcontract between the University of Montevallo and the University of Alabama monitored by the employee, provided all activities relating to the coursework be conducted on her own time, whether afterhours, weekends, etc., and that there is no use of DHR or other public resources to assist her in teaching the course.

CONCLUSION

A State employee with the Alabama Department of Human Resources may teach an evening class at the University of Montevallo when the class being taught is not a part of the Title IV-E Subcontract between the University of Montevallo and the University of Alabama monitored by the employee, provided all activities relating to the coursework be conducted on her own time, whether afterhours, weekends, etc., and that there is no use of DHR or other public resources to assist her in teaching the course.

AUTHORITY

By 3-0 vote of the Alabama Ethics Commission on February 3, 2016.


Brig. Gen (R) Edward F. Crowell (USAF)
Chair
Alabama Ethics Commission