

STATE OF ALABAMA
ETHICS COMMISSION



H. Dean Buttram, Jr., Esq. Chairman
James T. Pursell, Vice-Chairman
Henry B. Gray III
Camille S. Butrus
Helen Shores Lee, Esq.

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

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



E. J. (Mac) McArthur
Director

TELEPHONE (334) 242-2997
FAX (334) 242-0248

January 10, 1996

ADVISORY OPINION NO. 96-05

Mr. Bill Rambo
Post Office Box 237
Millbrook, Alabama 36054-0237

Use Of Office For Personal
Gain/ Alabama Historical
Commission Park Director
Writing Book Using
Knowledge Obtained
Through Employment.

A Park Director with the
Alabama Historical
Commission may write a
book of a historical nature
using information obtained
through his employment;
provided, there is no use of
public property, time, labor,
equipment, materials, and
further that the writing of
such a book does not conflict
with the public employment.
And further, that research
done on the book be done on
either his own time or
through a lawful employment
agreement regulated by
agency policy.

Mr. Bill Rambo
Advisory Opinion No. 96-05
Page Two

Dear Mr. Rambo:

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

May a Park Director employed by the Alabama Historical Commission write a book of a historical nature that relates to his employment and with knowledge obtained through his employment?

FACTS AND ANALYSIS

The Park Director for the Confederate Memorial Park in Marbury, Alabama is employed by the Alabama Historical Commission. His duties include answering questions from park visitors and corresponding with various persons concerning the War between the States, and particularly Alabama's role in the conflict. As a part of his employment, he usually (but not consistently) spends one day a week researching the primary source materials stored at the Alabama Department of Archives and History in Montgomery.

It is his desire to write a book or books relating to the War between the States and more specifically Alabama's role in the conflict. He has asked for this opinion regarding the above questions.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) states:

"(24) PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. 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".

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."

Section 36-25-5(c) states:

"(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."

The Park Director should be careful to see that his visits to the Department of Archives and History to research for the book be done on his own time or pursuant to a lawful employment agreement or agency policy approved by the Alabama Historical Commission.

Based on the facts as provided, it would not be a conflict of interests or a use of office for personal gain for a Park Director with the Alabama Historical Commission to write a book of a historical nature using knowledge obtained through his employment; provided the following conditions are met, that there is no use of public property, time, labor, equipment, materials, and further that the writing of such a book does not conflict with the public employment. And further, that research done on the book be done on either his own time or through a lawful employment agreement regulated by agency policy.

CONCLUSION

A Park Director with the Alabama Historical Commission may write a book of a historical nature using information obtained through his employment; provided, that there is no use of public property, time, labor, equipment, materials, and further that the writing of such a book does not conflict with the public employment. And further, that research done on the book be done on either his own time or through a lawful employment agreement regulated by agency policy.

Mr. Bill Rambo
Advisory Opinion No.96-05
Page Four

AUTHORITY

By 5 - 0 vote of the Alabama Ethics Commission on January 10, 1996.

A handwritten signature in black ink, appearing to read 'H. Dean Buttram, Jr.', written over a horizontal line.

H. Dean Buttram, Jr.
Chair
Alabama Ethics Commission