



# STATE OF ALABAMA ETHICS COMMISSION



## COMMISSIONERS

Henry B. Gray III, Chairman  
Camille S. Butrus, Vice-Chairman  
Helen Shores Lee, Esq.  
John H. Watson  
Lewis G. Odom, Jr., Esq.

## MAILING ADDRESS

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

## STREET ADDRESS

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

James L. Sumner, Jr.  
Director

Hugh R. Evans, III  
Assistant Director  
General Counsel

April 8, 1998

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

## ADVISORY OPINION NO. 98-11

W. Troy Massey  
Attorney at Law  
Post Office Box 230684  
Montgomery, Alabama 36123-0684

### Personal Gain/Use Of County Vehicle.

The Superintendent of the Wilcox County Board of Education may use his County car while on official County business, and may use the vehicle to travel from Camden, Alabama to Opp, Alabama on the weekends to return home, as he is temporarily assigned by the Board of Education to work in Camden, but he may not use the vehicle for personal business while in Opp.

It should be pointed out that this opinion deals only with the facts contained within Advisory Opinion No. 98-11, and does not alter, amend or supersede any other Ethics Commission Advisory Opinions relating to the use of public vehicles.

Dear Mr. Massey:

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

Can the Superintendent of the Wilcox County Board of Education drive his County car to Opp, Alabama on Fridays from Camden, Alabama, when he is merely returning home, provided he does not use it for personal use while at home in Opp for the weekend?

### FACTS AND ANALYSIS

Eddie J. Hill is the Superintendent of the Wilcox County Board of Education. The Wilcox County Board of Education is currently under control of the State Board of Education by Federal Court Order. Eddie J. Hill was asked by the Superintendent for the State Department of Education to serve as Superintendent of the Wilcox County Board of Education. One important factor in the State control is that it was important to have someone from outside the Wilcox County Board of Education spectrum to serve as Superintendent. Prior to this appointment, Eddie J. Hill served as a principal in Opp, Alabama, where he maintained his residence.

Presently, Mr. Hill has an apartment in Camden, where he lives during the week and uses his personal vehicle after hours during the week. The Wilcox County Board of Education has provided Mr. Hill with a vehicle for use while working in Wilcox County. The Superintendent's Office is located in Camden, Alabama, but Mr. Hill's permanent residence is Opp, Alabama, which is approximately 110 miles from Camden. Mr. Hill lives in Camden during the week, but returns home to Opp each Friday at the close of school. To date, Mr. Hill has been leaving his State car in Camden for the weekend and driving his personal car to Opp on Friday and returning to Camden in it on Monday mornings.

A State, County or Municipal car is provided to a public official or a public employee for use to assist that individual in conducting official business. It is not to be used for personal matters.

While a State, County or Municipal vehicle is to be used for public business only, in the facts before the Ethics Commission, Mr. Hill was requested to serve as Superintendent of the Wilcox County Board of Education and did not actively seek the position. The position will not be permanent and, at some point-in-time, he will be returning to his position in Opp.

The Alabama Ethics Law, Code of Alabama, 1975, 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.”

Section 36-25-1(24) states:

“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.”

Based on the above law and the facts as provided, the Superintendent of the Wilcox County Board of Education may use his County car while on official County business, and may use the vehicle to travel from Camden, Alabama to Opp, Alabama on the weekends to return home, as he is temporarily assigned by the Board of Education to work in Camden, but he may not use the vehicle for personal business while in Opp.

Further, it should be pointed out that this opinion deals only with the facts contained within Advisory Opinion No. 98-11, and does not alter, amend or supersede any other Ethics Commission Advisory Opinions relating to the use of public vehicles.

### **CONCLUSION**

The Superintendent of the Wilcox County Board of Education may use his County car while on official County business, and may use the vehicle to travel from Camden, Alabama to Opp, Alabama on the weekends to return home, as he is temporarily assigned by the Board of Education to work in Camden, but he may not use the vehicle for personal business while in Opp.

W. Iroy Massey

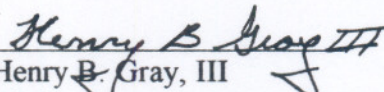
Advisory Opinion No. 98-11

Page four

It should be pointed out that this opinion deals only with the facts contained within Advisory Opinion No. 98-11, and does not alter, amend or supersede any other Ethics Commission Advisory Opinions relating to the use of public vehicles.

**AUTHORITY**

By 5-0 vote of the Alabama Ethics Commission on April 8, 1998.

  
Henry B. Gray, III  
Chair  
Alabama Ethics Commission