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October 6, 1999

ADVISORY OPINION NO. 99-38

Dr. John W. Caylor
Director
Paralegal Department
Northeast Alabama Community College
Post Office Box 159
Hwy. 35 West
Rainsville, Alabama 35986

Conflict Of Interests/Director Of Paralegal
Department At Community College
Providing Clinical Structure In A Small
Number Of Indigent Criminal Defense Cases
And Using Student Paralegals In The Clinical
Setting In Order For Them To Obtain
Hands-On Experience.

The Director of the Paralegal Department at
Northeast Alabama Community College may
establish a clinical structure and use
Paralegal students to assist in indigent
criminal defense cases in order for those
students to obtain hands-on experience, as
this would be considered a part of his duties
and he receives no additional compensation.
In addition, any benefit received would enure
to the Paralegal students.

Dear Dr. Caylor:

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 the Director of the Paralegal Department at Northeast Alabama Community College establish a clinical structure and use Paralegal students to assist in indigent criminal defense cases in order for those students to obtain hands-on experience?

FACTS AND ANALYSIS

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

Dr. John Caylor is the Director of the Paralegal Department for Northeast Alabama Community College. He retired from the practice of law over four years ago and assumed the responsibilities at the College at that time.

In the past, he has been able to do internship on a far too limited basis. He has done one internship with the Honorable Michael O'Dell, the District Attorney for DeKalb and Cherokee Counties and was able to do one internship with the Honorable Randall Cole, Circuit Court Judge for DeKalb and Cherokee Counties. He states that another internship was done through the District Court in Madison County, Alabama, when one of his students was able to complete the necessary training to become a juvenile advocate and was sworn in by the Honorable Laura Jo Hamilton, District Court Judge for Madison County.

Presently, Northeast Alabama Community College is undergoing American Bar Association review for certification purposes. Dr. Caylor states that clinicals and internships are helpful and are looked upon very favorably by the American Bar Association in the certification process. Dr. Caylor states that Northeast Alabama Community College is a very rural college, located on the DeKalb/Jackson County line between Fort Payne and Scottsboro. He states that almost all of his students work and attend school at the same time, which makes it virtually impossible for them to be involved in internships.

Dr. Caylor would like to establish internally, a clinical structure, wherein he could take a small number of indigent criminal defense cases from the surrounding jurisdictions and use the student Paralegals in a clinical setting in order to give them hands-on experience with real cases, real defendants, real witnesses and real law enforcement officers. Dr. Caylor states that by taking a few indigent defendants, he can provide a clinical experience for his students. The Dean of the Paralegal Division has approved this clinical offering and it is felt that by providing a clinical setting, Northeast Alabama Community College would be providing what the students need.

Dr. Caylor has stated that he will not receive any additional compensation for this, but that, in fact, this would be considered a part of his job duties. While there may be some Court

ordered monies involved for the services provided to indigent defendants, all monies received would go to the College. In addition, the service would be provided in conjunction with the Court.

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(8) states:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

In the facts before the Commission, by providing this clinical setting for his Paralegal students, Dr. Caylor and Northeast Alabama Community College would be providing a benefit to the students within the department and not to himself. It would also provide a benefit to the Community College by assisting the College in being accredited by the American Bar Association.

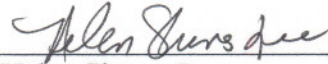
Based on the facts as provided and the above law, the Director of the Paralegal Department at Northeast Alabama Community College may establish a clinical structure and use Paralegal students to assist in indigent criminal defense cases in order for those students to obtain hands-on experience, as this would be considered a part of his duties and he receives no additional compensation. In addition, any benefit received would enure to the Paralegal students.

CONCLUSION

The Director of the Paralegal Department at Northeast Alabama Community College may establish a clinical structure and use Paralegal students to assist in indigent criminal defense cases in order for those students to obtain hands-on experience, as this would be considered a part of his duties and he receives no additional compensation. In addition, any benefit received would enure to the Paralegal students.

AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on October 6, 1999.



Helen Shores Lee
Chair
Alabama Ethics Commission