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ETHICS COMMISSION



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December 18, 1996

ADVISORY OPINION NO. 96-121

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Use Of Office For Personal Gain/High
School Coach Receiving Salary Supplement
From Athletic Booster Club.

A High School Coach may not receive a
salary supplement in the form of cash or
anything else of value from a Booster Club
or other group, in addition to salary or
supplements paid by the Board of Education,
except as otherwise provided by law or as
provided pursuant to a lawful employment
agreement regulated by agency policy.

Dear Mr. Langley:

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

Does the Alabama Ethics Law prohibit coaches, employed by the Board of Education, from receiving cash or anything of value from a Booster Club or anyone else other than the Board of Education?

FACTS AND ANALYSIS

In February of 1990, the Alabama Ethics Commission adopted Advisory Opinion No. 90-14, which prohibited coaches at a Municipal High School from receiving salary supplements from an Athletic Booster Club at the school.

Charles A. Langley, an attorney in Fayette, Alabama, has requested that the Alabama Ethics Commission re-visit Advisory Opinion No. 90-14 in light of the 1995 amendments made to the Ethics Law. Mr. Langley has presented the following fact scenario.

"The County Board of Education employs coaches who receive salary supplements that are paid to them by the Board of Education. Recently the Board met to consider changing the method used by the Board to determine the amount paid to coaches. In a meeting of the County Board of Education, it was suggested that a booster club could supplement the salary of coaches."

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 36-25-1(32)(a) states:

"(32) THING OF VALUE.

a. Any gift, benefit, favor, service, gratuity, tickets or passes to an entertainment, social or sporting event offered only to public officials, unsecured loan, other than those loans made in the ordinary course of business, reward, promise of future employment, or honoraria."

Section 36-25-2(a)(3) states:

"(a) The Legislature hereby finds and declares:

(3) No public office should be used for private gain other than the remuneration provided by law."

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."

Based on the above law and the facts as presented, a coach employed by a Board of Education, may not receive a salary supplement in the form of cash or anything else of value from a Booster Club or other organization, in addition to their normal remuneration from the Board of Education.

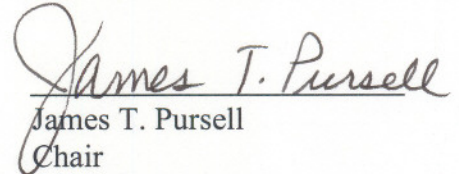
CONCLUSION

A High School Coach may not receive a salary supplement in the form of cash or anything else of value from a Booster Club or other group, in addition to salary and supplements paid by the Board of Education, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy.

Charles A. Langley
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AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on December 18, 1996.


James T. Pursell
Chair
Alabama Ethics Commission