

Revisions to the Alabama Ethics Act

After meeting in special session last December, the Alabama legislature passed three laws amending the Alabama Ethics Act. Much of the legislation was aimed at lobbying activities such as providing meals, trips, and gifts to public officials and employees. However, there are a number of changes potentially of interest to University employees.

Public employees of the State who occupy a position with a base pay of fifty thousand dollars (\$50,000) or more annually are still required to file annually, prior to April 30 of each year, a Statement of Economic Interest covering the preceding calendar year. In addition, those employees with a base pay of \$50,000 or more who were hired on or prior to January 1, 2011 are now required to undergo no later than April 30, 2011 an online educational review of the Alabama Ethics Act provided on the Ethics Commission website. State employees hired after January 1, 2011 must complete the online educational review within ninety (90) days of their being hired.

Procedural changes include granting the Ethics Commission subpoena power to compel attendance of witnesses and the production of books, papers, documents, and other evidence. Additionally, the Ethics Commission now has 180 days to determine whether there is probable cause to believe that a violation of the Ethics Act has occurred. For good cause shown, that period may be extended on a one-time basis for an additional 180 days. Upon a finding of good cause, the matter will be forwarded to the appropriate district attorney or to the Attorney General for appropriate legal action. Within 180 days of its referral, the district attorney or Attorney General will, upon written request of the Ethics Commission, notify the commission in writing as to whether the case will be pursued or not. If the case is pursued, the district attorney or Attorney General will, upon written request of the Ethics Commission, inform the Commission of the disposition of the case. The written information exchanged will be maintained by the Ethics Commission and made available as a public record.

Of general interest is a change which makes it a violation of the Ethics Act for anyone to offer or give a public official or public employee or a member of his/her anything, whether or not the thing is a thing of value, in order to influence official action. Neither may such officials or employees or members of their households solicit or receive anything for the purpose of influencing official action, regardless of whether the thing solicited or received is a thing of value. Previously, offering, giving, soliciting, or receiving a "thing of value" was required to constitute a violation. An advisory opinion from the Ethics Commission indicates the Commission will interpret this provision very strictly and makes it unwise for any entity or individual to provide anything at all to a public official if the giving of that thing is in any way connected with the discussion of, or attempt to influence, any policy, legislation or regulation.

As the Ethics Commission issues additional opinions, the exact interpretation and impact of the changes to the Ethics Law should become clearer. Some suggest that the changes themselves may be amended by the Alabama legislature.