



# School Law I

## The Building Blocks of Alabama Education

# The Basics

- Our education system is created by state law.
- Our Constitution set it up.
- Our legislature has created the rules.
- The basics can be found in the Alabama Code.
- We have a whole “title” created just for us! Title 16.
- But that’s not all – there are also rules in other areas of the code that may apply
  - Title 36 (Public Employees), Title 11 (City and County Government); Title 40 (Revenue) and the list goes on.

# The Basics of Title 16

- Goes (mostly) from big to small – also has provisions that set up and provide the basics for the components of the education system
  - Starts with the State – Superintendent and Board
  - County Superintendents and Boards
  - City Superintendents and Boards
  - Charter Schools, Statewide Schools, Virtual Schools, etc.
- Also contains provisions about higher education
- Plenty of sections that deal with specific subject matter areas
  - Finance, Tenure, School choice, etc.

# Title 16 – What's In it?

- Chapter 1 - General Provisions
- Chapter 2 – Department of Education
- Chapter 3 – State Board of Education
- Chapter 4 – State Superintendent
- Chapter 5 – ACHE
- Chapter 6 – Accountability and Improvement Measures (6A – 6H)
- Chapter 7 – Alabama Education TV

# Title 16 – What's In it?

- Chapter 8 – County Boards
- Chapter 9 – County Superintendents
- Chapter 10 – Board of School Trustees
- Chapter 11 – City Boards of Education
- Chapter 12 – City Superintendents
- And a whole bunch more!

# Highlights and Overview

## Chapter 1

- General provisions are anything but...lots of specifics
- Sort of the place where “everything else” goes
  - Construction provisions
  - AASB
  - Discipline & School Prayer
  - 16-1-18.1, 18.2 Sick Leave
  - 16-1-30 Policy/Meet and Confer
  - 16-1-33 RIF
  - 16-1-38, 38.1 Superintendent Training

# Highlights and Overview

## Chapter 1

- 16-1-38, 38.1 Superintendent Training
- 16-1-39 Self administration of medication
- 16-41, 41.1 School Board Governance
- 16-1-44, 44.1 Safety and Security
- 16-1-52 & 54 Athletics and Restrooms – Biological Sex

# Highlights and Overview

## SDE – 16-2-1 et seq.

- Creates the State Department of Education – run by the State Superintendent
- Gives assistant state superintendents the duties of the State Superintendent (on his or her direction) – the Board can provide other duties – also has details about vacancies, compensation etc.
- Duty of SDE – assist in executing the policies and procedures authorized by law and regulations of the Board
- Organized by State Superintendent – must be approved by Board



# Highlights and Overview

## State Board – 16-3-1 et seq.

- Governor plus 8 elected members from 8 districts, sets districts
  - Members have to live in district they represent
  - Can't be a board employee or an educator in the five years before office
- 4-year terms, take office in January following election
- Governor is the President, Elect a VP, State Superintendent is secretary and executive officer
- Can be removed – Ala Code 16-3-4
- Vacancies filled by appointment by Governor / has to confirmed by Senate at following session
- Establishes regular meetings and process for setting special meetings
- Provides for compensation and reimbursement, expense allowance

# Highlights and Overview State Board– 16-3-1 et seq.

- Sets compensation
- Powers – through the Superintendent, exercise control and supervision over public schools of the State
- Adopt rules and regulation for construction, sanitation, examination fo school children/enforce health laws, compulsory education and child conservation
- Make rules for grading and standardizing public schools
- Make rules and regulations on teacher training/education and certification
- Approve plans for flexible school terms and recommend legislation
- Make rules for the review of local actions by the State Superintendent relating to finance or other matters seriously affecting educational interest

# Highlights and Overview

## State Superintendent– 16-4-1 et seq.

- CEO, appointed by and serves at pleasure of the Board, can approve a contract not to exceed 4 years, set salary
- Vacancy and hiring procedure – posting process – on the internet and all school offices for at least 30 days
  - Have to fill within 120 days but allows an interim for 2 6-month periods
- Duties
  - Explain the true intent and meaning of the school laws and of the rules and regulations of the State Board of Education.
  - Decide, without expense to the parties concerned, all controversies and disputes involving the proper administration of the public school system
  - Enforce all the provisions of this title and the rules and regulations of the State Board of Education.

# Highlights and Overview

## State Superintendent– 16-4-1 et seq.

- Apportion school funds
- Execute educational policy of the State Board
- Authority to review actions of local boards
  - In areas of finance and other matters seriously affecting educational interest
  - Power to determine “just and proper disposition” of the matter
  - Order is binding
- Prepares rules for construction of schools (must be approved by Board)

# Highlights and Overview County Boards– 16-8-1 et seq.

- Elected – 5 members to six-year terms
  - High school diploma
  - Can't be employee
  - Can't be on private school board
  - Can't be a sex offender
  - Can't have been convicted of a felony
- Have at least one meeting a year where the public can present
- Annual meeting in November and at least 5 more meetings per year
- Action requires majority of Board (not just majority of quorum)

# Highlights and Overview

## County Boards– 16-8-1 et seq.

- Vacancies filled by board or State Superintendent if more than 30 days
- Superintendent is secretary and CEO
- Duties – administration and supervision fo schools in county (except those under city board) – although can operationally consolidate city and county board
- Can own property, hold funds, real estate held in trust
- Can contract, enter into cooperative agreements with county commission, board discretion
- Can consolidate schools – two counties or counties and cities
- Can jointly maintain schools near county or state liens

# Highlights and Overview

## County Boards– 16-8-1 et seq.

- Annexation – keep schools and territory until a agreement is made with city
  - If can't agree, goes to binding arbitration – panel of 3
- Hire suspend or dismiss teachers & employees – requires recommendation from Superintendent (16-8-23)
- Grant vacations and leaves of absence (16-8-25)
- Can give up to 5 days personal leave
- Divide up into attendance districts
- Promotion and admission criteria
- Right to sue and contract, condemnation authority
  - “All contracts shall be made after resolutions have been adopted by the board and spread upon its minutes”

# Highlights and Overview

## County Superintendent– 16-9-1 et seq.

- CEO – appointed (unless elected)
- Term of between 2 and 4 years
- Minimum Qualifications
  - Certificate in administration and supervision
  - 5 years public school experience
  - Proof to State Superintendent of three years' "successful" experience
  - 4 Year degree
  - Proof to county board of knowledge of school administration
  - BUT doesn't have to be resident



# Highlights and Overview

## County Superintendent– 16-9-1 et seq.

- Where elected by law, nominated and elected like other candidates, takes office January following the election
- Vacancies filled by board within 180 days, within 90 days board gives its process and timeline
  - If not filled within 180 days, State Superintendent can withhold funds
  - Vacancy posted at all school and work sites – at least 30 days
  - Allows for an interim for up to 180 days
- Full time employee (but board can authorize outside employment)
- Board decides salary, where elected has to be set before term of office begins

# Highlights and Overview

## County Superintendent– 16-9-1 et seq.

- Sees that laws are adhered to, recommends kind and location and attendance zones of schools, building program
- Approves contracts
- Recommends building improvements
- Recommends admission requirements
- Prescribes the course of study, prepares recommendation for grading and standardizing schools
- Personnel recommendations
  - “assign them to their positions, transfer them as the needs of the schools require, recommend them for promotion, suspend them for cause and recommend them for dismissal”

# Highlights and Overview

## County Superintendent– 16-9-1 et seq.

- Teacher institute
- Visits schools, give suggestions
- Develops forms
- Enforces attendance laws
- Prepare and approve payroll

# Highlights and Overview City Boards– 16-11-1 et seq.

- “City” = greater than 5,000 population
- Appointed by City Council in April – 5 members (have to be residents) to five-year staggered terms
  - High school diploma
  - Can't be employee
  - Can't be on private school board
  - Can't be a sex offender
  - Can't have been convicted of a felony
- Take office in June
- Different classes of cities and types of government – variations by special statute or local law
  - Different terms, numbers of members, elected boards, districts

# Highlights and Overview City Boards– 16-11-1 et seq.

- Annual meeting in May, elect President and VP
- Roberts Rules
- Majority of the whole board is required to pass a measure
- All the powers necessary or proper for the administration and management
- Cooperative agreements with City contemplated
- Own all property, build schools, enter into contracts (can sue on them too)
- Can condemn

# Highlights and Overview City Boards– 16-11-1 et seq.

- Establish salaries, appoint, suspend or dismiss upon recommendation of Superintendent
- Grade and standardize schools
- Cannot charge fees for grades 1-6.

# Highlights and Overview

## City Superintendent– 16-12-1 et seq.

- CEO – appointed (unless elected which is rare)
- No term specified.
- Minimum Qualifications
  - 4 Year degree
  - Knowledgeable in school administration
  - BUT doesn't have to be resident
- Shall attend all meetings and committee meetings and will advise but cannot vote
- Act as secretary of board

# Highlights and Overview

## City Superintendent– 16-12-1 et seq.

- Sees that laws are adhered to, recommends kind and location and attendance zones of schools, building program
- Explains the “true intent and meaning” of school laws
- Decides “all controversies and disputes” involving rules of local schools
- Approves contracts “in writing”
- Recommends building program
- Recommends educational policies, rules and regulations admission requirements
- Prescribes the course of study, prepares recommendation for grading and standardizing schools



# Highlights and Overview

## City Superintendent– 16-12-1 et seq.

- Teacher institute
- Visits schools, give suggestions
- Develops forms
- Enforces attendance laws
- Prepare and approve payroll
- Vacancies filled by board within 180 days, within 90 days board gives its process and timeline
  - If not filled within 180 days, State Superintendent can withhold funds
  - Vacancy posted at all school and work sites – at least 30 days
  - Allows for an interim for up to 180 days

# Highlights and Overview

## Board of School Trustees– 16-10-1 et seq.

- County Boards may name a board of trustees for each school
- Six “discreet, competent and reliable persons of mature years”
- Terms - four years
- Duties
  - To care for the property
  - To look after the general interest of the school
  - To make to the county board of education, through the county superintendent of education, from time to time, report of the progress and needs of the school and of the will of the people in regard to the school.

# Highlights and Overview

## Board of School Trustees– 16-10-1 et seq.

- Annual meeting plus at least two more meetings
- Principal teacher (the Principal?) is secretary of the board
- Can refuse to take a teacher who is assigned to the school – requires unanimous consent
- No fees in elementary schools but can charge tuition and collect donations (16-10-6)
- Visit the school at least once per month
- “Take care of the building and grounds” and keep Board advised.
- Can file written charges requesting removal of the principal or a teacher
- Use of building for civic purposes is specifically allowed



# Alabama's Ethics Law

# Alabama's Ethics Law It's Your Responsibility!

- Ethics law applies to individuals
- Violations can result in criminal liability
- Not the board's responsibility or the superintendent's to monitor, interpret, or enforce

# The Basics

- Can't use position for personal gain
- Can't use public resources for personal use
- Prohibits conflicts of interest
- Can't solicit or receive a thing of value because of position
- Can't be given anything to influence official action

## Who Is Covered?

Public Employees - Any person employed at the state, county, or municipal level of government.

(That means Board employees too!)

Public Officials – This includes Board members.

# Conflict of Interest

“A conflict on the part of a ...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 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.”

ALA. CODE §36-25-1(8)



# The Rules

## Personal Use of Position

Can't use position for personal gain:

“No...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 any business with which the person is associated...”

ALA. CODE §36-25-5(a)

# Personal Gain Prohibition Applies to Family and Business too!

Family = The spouse, or a dependent of the public employee and for a public official, also an adult child and his or her spouse, a parent, a spouse's parents, siblings and their spouses.

Business = Any business of which the person or a member of his or her family is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business.”

# The Rules

## Use of Public Resources

Can't use public resources for private benefit:

“No...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 employee, any other person, or principal campaign committee...”

ALA. CODE §36-25-5(c)

# The Rules

## Solicitation of Thing of Value

### Can't solicit a thing of value:

“No...public employee shall, other than in the ordinary course of business, solicit a thing of value from a subordinate or person or business with whom he or she directly inspects, regulates, or supervises in his or her official capacity.”

ALA. CODE §36-25-5(e)

This means you can't ask for it...

# What is a Thing of Value?

“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.

ALA. CODE §36-25-1 (34)(a)

# Thing of Value – What is NOT (as long as there is no quid pro quo)

- \* Anything that is paid for by a governmental entity ...except for tickets to a sporting event offered by an educational institution to anyone other than faculty, staff, or administration of the institution.
- \* Anything for which the recipient pays full value.
- \* Any function or activity pre-certified by the Director of the Ethics Commission as a function that meets any of the above criteria

# Thing of Value - Exceptions

- \* Payment of or reimbursement for actual and necessary transportation and lodging expenses to facilitate a public employee's participation in an economic development function.
- \* Hospitality, meals, and other food and beverages provided to a public employee (plus spouse) as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.

# Thing of Value - Exceptions

- \* Meals and other food and beverages provided to a public official or public employee in a setting other than any of the above functions not to exceed for a lobbyist twenty-five dollars (\$25) per meal with a limit of one hundred fifty dollars (\$150) per year; and not to exceed for a principal fifty dollars (\$50) per meal with a limit of two hundred fifty dollars (\$250) per year



# Thing of Value - Exceptions

- \* Friendship gifts and greeting cards, things with little intrinsic value, promotional items, items and services of de minimus value
- \* Hospitality, meals, and other food and beverages provided to a public employee (plus spouse) as an integral part of an educational function, economic development function, work session, or widely attended event, such as a luncheon, banquet, or reception hosted by a civic club, chamber of commerce, charitable or educational organization, or trade or professional association.

# The Rules De Minimus

\$25.00 or less per occasion and an aggregate of \$50.00 per year from a single provider or as may be prescribed by the Ethics Commission.

# The Rules

## Agency Heads; Reporting Violations

### Mandatory Reporting

There is no “turning the other way” on violations:

“Every governmental agency head shall within 10 days file reports with the commission on any matters that come to his or her attention in his or her official capacity which constitute a violation of this chapter.”

ALA. CODE §36-25-17(a)

# Penalties

“(a)(1) Any person subject to this chapter who intentionally violates any provision of this chapter shall, upon conviction, be guilty of a Class B felony.

(2) Any person subject to this chapter who violates any provision of this chapter shall, upon conviction, be guilty of a Class A misdemeanor.”

ALA. CODE §36-25-27(a)(1)(2)

# Ethics and Schools

## Some practical examples

- Employee with side business conducted at school
- Employee's spouse with business (yard service, catering, marketing)
- Meals for coaches - team meals v. meeting for dinner
- Personal Purchases through school (food, equipment, etc)

# Ethics and Schools

## More practical examples

- School Equipment for personal use (computers, cameras, lawn mowers)
- Trips – coordinated by employees
- T Shirts, clothing, goods, “rewards” programs, etc.
- Alabama, Auburn, UAB Tickets/Other Recreational Tickets
- Camps, After School Functions and the use of school property

# Ethics and Schools

## The Tupperware Opinion

- 1995 opinion – Assistant principal could not sell Tupperware at school
- Cannot “use his or her position as assistant principal to benefit himself/herself as a Tupperware sales person”
- May not use her position to solicit business from subordinates
- Why? – Use of position for personal gain
- Can have outside employment BUT the outside employment must “in no way be related to the person’s public employment not may that public employment be used to increase the economic benefits of outside employment”

# Ethics and Schools

## The Booster Club Opinion

- 1996 opinion – Coach receiving a supplement from Booster Club
- Coach could not receive a salary supplement in the form of cash or anything else of value from Booster Club or other group in addition to salary and supplements from board except as otherwise provided by law or pursuant to a lawful employment agreement regulated by Board policy
- Why? – Use of position for personal gain



# Ethics and Schools

## The Chaperone Opinion

- 2000 opinion – Teacher receiving a few school trip for chaperoning
- Complimentary travel ok *provided* that the school system sanctions the event and designates the chaperones who will receive a free trip
- School board employees who would receive a free trip cannot solicit students to participate
- Why? – Use of position for personal gain and conflict of interest

# Ethics and Schools

## The Lesson Plan Opinion

- 1996 opinion – School administrators developed educational materials on own time and wanted to sell to school boards
- It was ok to do so as long as there is no use of public time, equipment, labor or materials; the administrator did not use his position to obtain the opportunity and the development of the lessons did not interfere with his public employment
- BUT could not sell to the school system where an administrator and would supervise the teachers he would sell to.
- All work on lesson plans has to be done on his own time.

# Whistle Blower Protection Retaliation

“A supervisor shall not discharge, demote, transfer, or otherwise discriminate against a public employee regarding such employee’s compensation, terms, conditions, or privileges of employment based on the employee’s reporting a violation, or what he or she believes in good faith to be a violation, of this chapter or giving truthful statements or truthful testimony concerning an alleged ethics violation.”

ALA. CODE §36-25-24(a)

# False Accusations

“No public employee shall file a complaint or otherwise initiate action against a public official or other public employee without a good faith basis for believing the complaint to be true and accurate.”

ALA. CODE §36-25-24(c)

# Questions/Discussion

