

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
June 14, 2018**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:00 a.m. Commission members present included James Clevenger, Chairperson; Corinne Finnerty; Sue Anne Gilroy; Priscilla Keith (arrived at 10:04 a.m.); and Katherine Noel. Staff present included Jennifer Cooper, Ethics Director; Sam McGlone, Intern; Lori Torres, Inspector General; and Celeste Croft, Legal Assistant, Office of Inspector General.

Others present were Matthew Savage, Deputy General Counsel, Department of Workforce Development; Rachel Russell, Ethics Officer/Deputy General Counsel, Department of Child Services; Deana Smith, Attorney, State Department of Health; Beth Green, General Counsel, Department of Workforce Development; Jared Prentice, Compliance Director, Department of Revenue; Michelle Stanley, Legal Specialist, State Board of Accounts; Chris Serak, Ethics Officer, Department of Transportation; Sam Charbonneau, Family Case Manager Supervisor, Department of Child Services; Sarah Kamhi, Assistant General Counsel/Director of Agreements, Department of Revenue; Dyllan Kemp, Intern, Department of Revenue; Whitney Fritz, Staff Attorney, Department of Child Services; Alexander BeMiller, Governor’s Summer Intern, Department of Revenue; Mark Hawkins, Attorney, Department of Revenue; Sara Martin, License Control Counsel/Ethics Officer, Gaming Commission; Tamera Glickman, Assistant General Counsel, Department of Administration; Ted Cotterill, General Counsel/Chief Data Officer/Ethics Officer, Management Performance Hub; Patrick Clark, Intern, Management Performance Hub; Stephanie Semaan, Intern, Department of Workforce Development.

II. Adoption of Agenda and Approval of Minutes

Commissioner Gilroy moved to adopt the Agenda and Commissioner Noel seconded the motion which passed (4-0). Commissioner Gilroy moved to approve the Minutes of the May 10, 2018 Commission Meeting and Commissioner Noel seconded the motion which passed (4-0).

III. Consideration of Limited Personal Use of State Property/Resources Policy Presented by Ted Cotterill, General Counsel/Chief Data Officer/Ethics Officer Management Performance Hub

Ted Cotterill, General Counsel, Chief Data Officer, and Ethics Officer for Management Performance Hub, presented a Limited Personal Use of State Property/Resources Policy to the Commission because he wanted to ensure Management Performance Hub could leverage state resources in order to complete important tasks and the agency was not established until July 1, 2017, and therefore, does not have such a policy in effect. Per Mr. Cotterill, the policy presented before the Commission was the same as the policy the Commission approved for the Office of

Management and Budget in 2015. Mr. Cotterill further explained that the Office of Management and Budget wanted all policies throughout the various offices of the Office of Management and Budget to be uniform. After the Commission discussed the matter, Commissioner Noel moved to approve the Limited Personal Use of State Property/Resources Policy and Commissioner Gilroy seconded the motion which passed (4-0).

IV. Request for Formal Advisory Opinion

**2018-FAO-0016 Sam Charbonneau, Family Case Manager Supervisor
Rachel Russell, Deputy General Counsel/Senior Counsel for Strategic
Initiatives & Special Projects/Ethics Officer
Indiana Department of Child Services**

Sam Charbonneau serves as a Family Case Manager (FCM) Supervisor for the Indiana Department of Child Services' (DCS) Floyd County office. Rachel Russell serves as DCS' Ethics Officer and has submitted a request for a Formal Advisory Opinion on behalf of Mr. Charbonneau.

Mr. Charbonneau is also a candidate for Indiana State Representative. In November of 2017, Mr. Charbonneau reached out to the former DCS Ethics Officer to advise her that he was considering running for a political office. In February of 2018, Mr. Charbonneau notified Ms. Russell that he was planning to run for an Indiana State Representative seat.

Ms. Russell advised Mr. Charbonneau to seek an informal advisory opinion from the Office of the Inspector General (OIG). Mr. Charbonneau requested advice regarding his ability to accept campaign contributions from companies who do business with DCS or from attorneys who have represented clients in Child in Need of Services (CHINS) proceedings in Floyd County. Mr. Charbonneau shared the informal advisory opinion he received from the OIG with Ms. Russell on April 19, 2018. Mr. Charbonneau won his district's primary on May 8, 2018, and the general election will be held on November 6, 2018.

Ms. Russell is now requesting a Formal Advisory Opinion to determine whether Mr. Charbonneau would have any conflicts of interests under the Code if he runs for and/or is elected as an Indiana State Representative and maintains his employment as a FCM Supervisor with DCS.

The advisory opinion stated the following analysis:

Ms. Russell's request for a formal advisory opinion invokes consideration of the provisions of the Code pertaining to Political Activity, Gifts, Conflict of Interests, Use of State Property, Ghost Employment, and Benefitting from and Divulging Confidential Information. The application of each provision to Mr. Charbonneau is analyzed below.

The Commission does not have jurisdiction to interpret or address concerns regarding the dual office holding prohibition in the Indiana State Constitution or the federal Hatch Act. Mr. Charbonneau should review the federal Hatch Act as well as consult the Indiana Office of the

Attorney General's [Dual Office Holding Guide](#) and their recent [opinion](#) regarding state employees holding political office.

A. *Political Activity*

The political activity rule prohibits Mr. Charbonneau from engaging in political activity, including solicitation of political contributions from anyone, when he is on duty or while acting in an official capacity for the State. This rule also prohibits Mr. Charbonneau from soliciting political contributions at any time, whether on duty or not, from persons with whom DCS has a business relationship or from state employees or special state appointees he directly supervises. So long as Mr. Charbonneau is soliciting contributions for his own campaign, it makes no difference if he has purchasing or procurement authority.

The Commission finds that Mr. Charbonneau is permitted to engage in political activity when he is not on duty or acting in his official capacity. On duty and acting in his official capacity means during his normal work hours when he is actively performing work for DCS. He also cannot actively solicit political contributions any time that he is scheduled to be on call and/or expected to respond to calls. The Commission further finds that Mr. Charbonneau would be prohibited from using his official DCS title on any campaign materials.

The Commission further finds that Mr. Charbonneau may solicit political contributions for his own campaign as a candidate from anyone other than his direct reports and those with a business relationship with DCS, as an agency, and not just those with a business relationship with his local DCS office/region.

In addition, the Commission finds that Mr. Charbonneau may *accept* unsolicited political contributions from persons with whom DCS has a business relationship so long as he is not soliciting or asking others to solicit these individuals on his behalf. The Commission recommends that Mr. Charbonneau have a disclaimer on his website and on any campaign materials that are intended to solicit political contributions, including invitations to events where funds will be solicited, in order to make it clear that he cannot solicit funds from any person who has a business relationship with DCS. The disclaimer should include a reference to the political activity rule and the definition of business relationship found in IC 4-2-6-1(a)(5).

So long as Mr. Charbonneau adheres to the above restrictions, his political campaign and subsequent service as an Indiana State Representative would not be contrary to the political activity rule.

The gift rule (42 IAC 1-5-1) also prohibits state employees from accepting a gift from a person who has a business relationship with the employee's state agency; however, it exempts political contributions subject to IC 3-9-2 from the prohibition. Therefore, so long as any unsolicited contributions comply with IC 3-9-2, the gift rule would permit Mr. Charbonneau to accept campaign contributions from persons who have a business

relationship with DCS. The gift rule would not apply to donations, either solicited or unsolicited, from persons who do not have a business relationship with DCS.

Finally, the Commission notes that DCS Policy Number HR 3-3 provides further rules and procedures for DCS employees seeking political office and further restrictions on political activity with which Mr. Charbonneau will need to ensure he complies as he continues to seek and/or is elected to public office. These restrictions include a prohibition on soliciting political contributions from other employees. The policy restrictions also prohibit directly or indirectly requesting that subordinates assist, in any way, with a campaign for a political party or candidate.

B. Outside Employment/Professional Activity

IC 4-2-6-5.5 prohibits Mr. Charbonneau from 1) accepting other employment involving compensation of substantial value if those responsibilities are inherently incompatible with his responsibilities in his state employment or would require his recusal from matters so central or critical to the performance of his duties with the State that his ability to perform them would be materially impaired; 2) accepting employment or engaging in business or professional activity that would require him to disclose confidential information that was gained in the course of his employment with the State; and 3) using or attempting to use his position with the State to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals outside state government.

Mr. Charbonneau has notified both the former and the current DCS Ethics Officer to ensure he is following all of the applicable rules and procedures. Ms. Russell confirmed that he has been very transparent about his intentions to run for political office and has been in constant communication with DCS staff as needed.

Based on the information provided by Mr. Charbonneau and Ms. Russell, the Commission finds that the employee's activities as a candidate for Indiana State Representative would not create a conflict of interests for him under IC 4-2-6-5.5. Specifically, Mr. Charbonneau's responsibilities as a candidate would not be inherently incompatible with his DCS responsibilities, nor would they require his recusal from matters that are central or critical to the performance of his state duties.

In addition, Mr. Charbonneau would not be required to disclose confidential information he gained through his state employment as part of his candidacy for political office. He must also ensure that he does not use his official position during his campaign to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situation individuals outside state government.

The Commission did not analyze whether Mr. Charbonneau would be able to continue serving as a DCS FCM Supervisor if he were to win the election and take the office of Indiana State Representative because Ms. Russell pointed out that, under IC 4-15-2.2-45(b), a "classified" employee who is elected to a federal or state public office is considered

to have resigned from state service on the date the person takes office. Ms. Russell informed the Commission that Mr. Charbonneau is considered a classified employee and that she informed him before the meeting that he would need to resign his position as Family Case Manager Supervisor before taking office if he is elected to Indiana State Representative. While the Commission does not have jurisdiction to interpret this statute, the Commission recognizes that Mr. Charbonneau would need to follow this statute and resign from his current DCS position if he is elected and takes the office of Indiana State Representative.

C. Conflict of Interests

IC 4-2-6-9(a) prohibits a state employee from participating in any decision or vote, or matter relating to that decision or vote, if he has knowledge that various persons may have a “financial interest” in the outcome of the matter, including himself or a business organization in which he is serving as an employee or member. The term financial interest, as defined in IC 4-2-6-1(a)(11), includes an interest involving property or services. However, the term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee.

Based on the information provided, the Commission finds that Mr. Charbonneau would not be required to participate in decisions or votes, or related matters, as an FCM Supervisor in which the State legislature would have a financial interest in the outcome. So long as no such decisions or votes, or matters related to such decisions or votes, come before Mr. Charbonneau in his position at DCS, he would not be in violation of this rule. In the event he would otherwise participate in any such matters during the course of his state employment, he should follow the procedure set forth in IC 4-2-6-9 (b) to disclose the conflict.

D. Use of State Property

The use of state property rule prohibits a state employee from using state property for purposes other than official state business absent a written policy allowing for such use that has been approved by the Commission. The Commission confirmed that Mr. Charbonneau understands that he cannot use state property for any political purpose. This means he must refrain from using his state phone, computer, email account, etc. for any political purpose, even if the use is *de minimis*.

To the extent that Mr. Charbonneau refrains from using state property for duties related to his candidacy for Indiana State Representative, he would not be in violation of this rule.

E. Ghost Employment

The ghost employment rule prohibits a state employee from engaging in or directing others to engage in work other than the performance of official duties during working hours absent a written agency policy allowing it. Mr. Charbonneau must ensure that he refrains from working on any campaign or State Representative-related matters during his state working

hours and when he is on duty as an FCM Supervisor. As noted earlier in the opinion, the Commission also determined when he is scheduled to be on-call and/or expected to respond to calls, Mr. Charbonneau must refrain from actively soliciting political contributions. In other words he cannot attend a fundraiser or other campaign event during his on-call hours.

To the extent that Mr. Charbonneau refrains from engaging or directing others to engage in work other than official state duties during his working hours, he would not be in violation of this rule.

F. *Confidential Information*

42 IAC 1-5-10 and 42 IAC 1-5-11 prohibit a state employee from benefitting from or divulging confidential information.

To the extent that Mr. Charbonneau complies with these restrictions, he would not be in violation of these rules.

Subject to the foregoing analysis, the Commission finds that Mr. Charbonneau's candidacy for the office of Indiana State Representative would not create a conflict of interests under the Code of Ethics. Further, Mr. Charbonneau can engage in political activity, including the solicitation of political contributions from persons who do not have a business relationship with DCS, so long as he engages in this activity only when he is not on duty and he does not use his official title.

Commissioner Finnerty moved to approve the Commission's findings, and Commissioner Keith seconded the motion which passed (5-0).

V. **Director's Report**

State Ethics Director, Jen Cooper, stated that the number of informal advisory opinions issued by the Office of Inspector General since the last meeting was 28, which covered post-employment restrictions, conflicts of interests, outside employment, use of state property, and ghost employment.

Ms. Cooper also stated that there were over 150 attendees at the Auditor & Investigator Conference hosted by the Office of Inspector General, held June 5, 2018. Based on survey results from that Conference, the Office of Inspector General decided to change the venue from the History Reference Room in the Indiana State Library to the Auditorium in the Indiana Government Center South, and decided to provide a professional speaker and more relevant topics at the next Auditor & Investigator Conference.

Lastly, Ms. Cooper announced that the Office of Inspector General had begun planning for the upcoming Legal & Ethics Conference, which is currently set to take place the during fall of 2018.

VI. Adjournment

Commissioner Noel moved to adjourn the public meeting of the State Ethics Commission and Commissioner Finnerty seconded the motion, which passed (5-0).

The public meeting adjourned at 11:12 a.m.

INDIANA
OFFICE OF INSPECTOR GENERAL

315 WEST OHIO STREET, ROOM 104, INDIANAPOLIS, IN 46202 317.232.3850

**Report of Inspector General to
State Ethics Commission
2018 Q2**

1. IAOs: Q2 April 1 – June 30:
 - a. 85 in Q2, projecting 320 for the year.
 - i. Compares to 75 issued in Q1
 - ii. Compares to 101 in Q2 in 2017
 - iii. 2017 we issued 371
2. Investigations: Q2 April 1 – June 30:
 - a. 78 Requests to Investigate
 - i. Very average number
 - ii. Compares to 100 in Q1
 - iii. 178 YTD compared to 131 at this time in 2017
 - b. 9 New investigations opened by our office.
 - i. Compared to 22 in Q1
 - ii. Compared to 12 in Q2 2017
 - iii. 5 special agents beginning April 23, 2018
 - c. 16 Closed investigations
 - i. Compared to 11 closed in Q1
 - ii. Compared to 10 closed for same period in 2017
 - iii. 18 of 27 closed cases are published on the website
 - d. Currently have 29 open cases, 20 active investigations or write ups for 5 Special Agents, very good ratio
3. KPI's for Q2
 - a. KPI #1 - Number of informal advisory opinions ("IAO"s) requested **101**
 - b. KPI #2 - Average number of business days to provide an IAO **1.29**
 - c. KPI #3 - Number of recommendations made to reduce waste, inefficiency, fraud and improve integrity **12 Q2, 23 CYTD**
4. Rulemaking
 - a. Formal re-adoption of IAC 42 in its entirety with no changes finalized on May 30, 2018.
 - b. No comments received, and no hearings held
 - c. Will start working on Title 40 of IAC later this year
5. Ethics Officer Audit Phase 2 beginning
 - a. Phase 1 – 34 agencies where agency head and/or ethics officer were not current. All but 4 have come into compliance.
 - b. Phase 2 – Current, filed at least 18 months ago, but used what is now an out of date form.

6. 2018 Auditor and Investigator Conference
 - a. Held June 5, 2018
 - b. Had 206 registered attendees
 - c. Speakers from ISP and State Board of Accounts
 - d. 2019 conference will be June 4, 2019
7. 2018 Legal & Ethics Conference
 - a. Tuesday, November 13 in the afternoon
8. FY 2019 Budget – same as FY18
 - a. IG \$1,147,059
 - b. SEC \$12,543
 - c. All general fund dollars
 - d. FY2018 Closeout Estimates: \$59,663 reverted which was 5.1% reversion on a mandatory 2% reversion.
 - e. Compares with FY17 close out of \$ \$60,887 reverted which was 5.3% of appropriation (mandatory 3% reversion)



Eric J. Holcomb
Governor

Kristina Box, MD, FACOG
State Health Commissioner

IC 4-2-6-11 **Post-employment waiver**

As the Appointing Authority of the Indiana State Department of Health (ISDH), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Arthur L. Logsdon (Art) in his post-employment with Hirons & Company Communications (Hirons).

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of:

- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
- IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
- IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker.

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Art's duties while an Assistant Commissioner often involved substantial decision-making authority over policies, rules and contracts for the Health and Human Services Commission, which included as many as 14 different divisions. In that role, he participated in contracts that Hirons had with ISDH, including those with the Trauma, HIV/STD and Maternal & Child Health Divisions. All of those contracts are now concluded.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

The proposed position with Hirons would have Art writing and proofreading for Hirons' website and other communication vehicles.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Art conceivably could have contact with the ISDH, as he will be working in the communications field and his duties on occasion might mean some contact. There are no contracts in effect today between ISDH and Hirons. In any event, Art does not anticipate working on any specific projects or matters that he worked on while with ISDH because all such projects or matters have concluded.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The waiver of the post-employment restriction is consistent with the public interest in that Art's new work as a writer and proofreader will be in a field with which he is familiar and, when the assignment calls for it, he would be able to continue to promote and provide essential public health information, consistent with the mission of the ISDH. Additionally, waiving the post-employment restriction allows Art to immediately become re-employed, which is a good thing for him and his family. Moreover, he will not be directly involved with the projects that he previously directed with the ISDH as those have all concluded.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

He has been offered employment in a field in which he is well qualified. If the waiver is denied, he could not accept employment with Hirons, which would create an economic hardship because he would then not be employed.

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.

Kristina M. Box, MD, FACOG 6/1/2017
Kristina Box, MD, FACOG DATE
State Health Commissioner

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

Deana M. Smith 6/4/2018
Deana M. Smith DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY	
Approved by State Ethics Commission	
_____	_____
James Clevenger, Chair, State Ethics Commission	Date

Mail to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to:
info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.



Eric Holcomb, Governor
State of Indiana

Indiana Family and Social Services Administration
402 W. WASHINGTON STREET, P.O. BOX 7083
INDIANAPOLIS, IN 46207-7083

Via Electronic Mail

Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
info@ig.in.gov

June 26, 2018

RE: IC 4-2-6-11 Post-employment waiver for Lori Buttram

As the Appointing Authority of the Indiana Family and Social Services Administration (“FSSA”), I am filing this waiver of the application of the Code of Ethics’ post-employment restriction as it applies to Lori Buttram in her post-employment with Evansville Vanderburgh School Corporation.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

- A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of

(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):

- IC 4-2-6-11(b)(1): 365 day required “cooling off” period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required “cooling off” period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.



IC 4-2-6-11(b)(3): 365 day required “cooling off” period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

B. IC 4-2-6-11(g)(2) requires that an agency’s appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee’s prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Per Ms. Buttram, as a licensing consultant for the FSSA Office of Early Childhood and Out of School Learning she was not directly involved in policymaking, rulemaking or contract administration. Ms. Buttram asserts that her duties included issuing citations to child care providers, including the Evansville Vanderburgh School Corporation, when she identified or observed a licensing compliance issue. It was Ms. Buttram’s responsibility to make recommendations regarding child care license renewals; however, she did not have final authority in issuing any licenses, variances, waivers, etc. She submitted her to the Child Care Facilities Manager or the Director of Office of Early Childhood and Out of School Learning for review and a final decision.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Ms. Buttram provided information that her prospective employment will be as the lead caregiver for infants and toddlers of employees of the Evansville Vanderburgh School Corporation at one of the elementary schools within the corporation. The position will require her to adhere to the childcare licensing regulations. Additionally, she will be responsible for planning learning activities for the children and ensuring the safety of the children. Additionally, her responsibilities will include keeping up to date observations and assessments of development of the

children for whom she is responsible as the lead caregiver. Furthermore, she will be required participate in continuing education and professional development training. Ms. Buttram will also be responsible for maintaining copies of training records and documents related to licensing organized in her personal file for the licensing consultant to review during annual licensing inspections of the school.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

According to the information provided by Ms. Buttram, she will have contact with the Office of Early Childhood and Out of School Learning during the annual licensing inspection of the school where she is the lead caregiver when an Office of Early Childhood and Out of School Learning licensing consultant visits the classroom. She anticipates that her supervisor at the school will have the most interactions with the Office of Early Childhood and Out of School Learning staff. Per Ms. Buttram, she will not make licensing decisions. She asserts that her interactions will be limited to providing documentation needed for the annual inspection.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The parents and students of the Evansville Vanderburgh School Corporation will benefit from Ms. Buttram knowledge and application of the licensing rules and safe sleep standards in a school setting as a lead teacher.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:


If the waiver is denied, Ms. Buttram will suffer an extreme economic hardship because she will be out of work because she has already resigned from FSSA with an effective day of July 18. Ms. Buttram is taking a pay cut to assume the role of lead teacher because she is passionate about teaching and staying in her community. If she were denied the waiver and required to seek employment in another field it would have a deleterious impact on her earning potential given that she would be leaving a profession where she has two degrees and substantial experience for a position where she will likely have to start at the entry level. If the waiver is denied, she anticipates that to earn a wage sufficient to support her family that she would have to uproot her family and move to another community where she has not worked as a licensing consultant. This would be a hardship on her because it would

be costly, her partner has a business in Evansville, and she has school age children involved in activities in Evansville.


C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.



Signature

Dr. Jennifer Walthall, Secretary



DATE _____

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).


Signature

Latosha N. Higgins, Managing Attorney


DATE _____

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY
Approved by State Ethics Commission

James Clevenger, Chair, State Ethics Commission

Date

Mail to:

Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202

OR

Email scanned copy to:

info@ig.in.gov

*Upon receipt you will be contacted
with details regarding the
presentation of this waiver to the
State Ethics Commission.*



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N758
Indianapolis, Indiana 46204

PHONE: (855) 463-6848
FAX: (317) 234-8365

Eric Holcomb, Governor
Joe McGuinness, Commissioner

July 5, 2018

Mr. James Clevenger, Chair
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, IN 46202

RE: Designation of Authority to Represent Commissioner and INDOT at July 12, 2018 Ethics Commission Meeting

Dear Mr. Clevenger:

As the Commissioner of INDOT, I have approved and executed a waiver of the one-year "cooling-off" period for INDOT employee Stephen Summers. Unfortunately, I will be speaking at an event on behalf of INDOT on July 12, 2018, at 10:00 a.m. Due to this engagement, I cannot attend the next meeting of the State Ethics Commission. Chris Kiefer, INDOT's Chief of Staff, is also unavailable on July 12, 2018, due to a previously scheduled intra-department meeting that cannot be rescheduled.

I have discussed my reasons for granting this waiver with Alison Grand, INDOT's Chief Legal Counsel. Ms. Grand will be able to attend the next State Ethics Commission meeting, present the waiver to the Commission, and answer all questions of the Commission members concerning the form and substance of the waiver for Mr. Summers.

Thank you for allowing Ms. Grand to serve as my representative at the Commission's July 12, 2018 meeting.

Sincerely,

Joe McGuinness
Commissioner
Indiana Department of Transportation

Cc: Alison Grand, Chief Legal Counsel, INDOT
Chris Serak, INDOT Ethics Officer

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of the Indiana Department of Transportation, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Stephan Summers in his post-employment with Troyer Group.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of
(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):

- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
- IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
- IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

- B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.
1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

The following information is based upon information provided by the employee to INDOT's Ethics Officer in connection with the process of considering this waiver.

Stephan Summers has served as a project manager with the Indiana Department of Transportation since July of 2015. The primary roles and responsibilities of a project manager, as defined by INDOT, are: 1) coordinating with construction and maintenance divisions in the development of projects from the time of programming through the completion of construction; 2) supervising the project scope, budget, and schedule throughout the life of the project; 3) coordinating project stake holders; 4) planning various meetings during project development; 5) scheduling and monitoring Constructability Reviews during project development; 6) reviewing and recommending solutions to the designer for project issues (design, utilities, R/W, etc.); 7) communicating with all personnel associated with the project to coordinate the work to achieve project success; 8) monitoring project status and identifying any risks with Area Engineer; 9) providing direction to Contracts Administration for the interpretation of project intent; 10) providing project updates, as needed, to various offices and divisions including INDOT Executive Staff; 11) attending Pre-Construction meetings; 12) attending regular meetings with contractors; 13) reviewing requests for changes to design or scope of contracts and making recommendations to appropriate construction personnel; and 14) contacting the INDOT assigned Engineer of Record regarding any project issues that arise during construction pertaining to Errors and Omissions for timely resolution with the designer.

The duties of a project manager are essentially to manage the project from the project kick-off to the start of construction. These duties include keeping track of the scope, schedule and budget of the construction cost estimates provided by the Asset Management Team. In some instances, the project manager is involved in direct contract negotiations with the consultant but, most often not as much. A Central Office Contract Negotiator is assigned to perform these duties. Once the contract has been finalized, the contract is transferred back to the Project Manager for delivering the project to construction. All major decisions throughout the process are approved by the Asset Owner of the contract, for example a change in scope for a bridge is approved by the Bridge Asset Owner, not the project manager. If the costs exceed \$250,000, then it must

be approved by the State Wide Change Management Board. As a project manager, I oversee over 250 projects over the next five years in various design phases.

Mr. Summers had direct authority over the administration of contracts with certain consulting firms. However, all such negotiated contracts were submitted for approval to Mr. Summer's supervisor, Lisa Shrader, INDOT's Consultant Services Manager for the LaPorte District. All major financial decisions on Mr. Summer's administered contracts were discussed with said supervisor and, if the amount was greater than \$250,000, the change had to be submitted for approval by the change management board.

Mr. Summers presently has over 250 projects and out of those projects, he had 12 projects with the Troyer Group. One in active construction, which is being administered by the Area Engineer for SR-51. Other projects in active design are SR-2 at CR-100S, SR-2 at CR-500 W, US-6 at SR-2, SR-55 at 73rd Ave, SR-2 at Heavilin Rd, SR-2 at Horse Prairie Rd, SR-55 at 73rd Ave and US-35 pavement project. Previous projects I have had with the Troyer Group are SR-51 at 10th St, SR-130 at CR-450 W and SR-130 at SR-149. Mr. Summers directly negotiated the US 35 project, and has been administering the other contracts through the design phase. He signs purchase orders each month for all consultants, including the Troyer Group, that perform contracted design work for INDOT. He has been screen from doing so for the Troyer Group.

The Troyer Group has some amendments to these contracts that the firm wants INDOT to consider, but the firm has decided to wait until another INDOT project manager is assigned to these contracts.

INDOT's Ethics Officer made the determination that Stephan would be subject to a 365-day "cooling-off" period between the date he left state employment and the date that he could start working for any of several consulting firms because Stephan was engaged in the negotiation and/or administration of one or more contracts with the Troyer Group on behalf of INDOT.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Based solely on the information provided to me by Mr. Summers, and contingent on the approval of this waiver by the State Ethics Commission, Stephan will be working in the development and management of the Troyer Group's design projects. This will involve developing and managing project schedules, project status reports, utility coordination, permits, and design plans.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work of the employee:

Most likely future employers that are civil engineering consultant firms will likely have contracts with INDOT providing professional engineering services for transportation infrastructure projects in need of repair, rehabilitation or replacement. Mr. Summers anticipates that he will have contact with various INDOT personnel in the natural execution of transportation design projects, similar to other any design consultant providing services to INDOT.

Mr. Summers has told INDOT's Ethics Officer that Stephan will scrupulously observe the "particular matters" post-employment restriction in the state ethics rules and will not have any involvement on behalf of his future employer whatsoever in any contract or other matter where Stephan personally and substantially participated in the matter as an INDOT employee. Stephan has also committed to clearly working with his future employer so that the company understands and agrees to similarly help Stephan comply at all times with the "particular matters" restriction.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

It is in the public's interest and beneficial to the state and other public agencies having Mr. Summers's extensive engineering experience available to provide professional engineering performance and guidance for state and local public works projects. In addition, Stephan's position with any prospective employer would apply his extensive INDOT experience to provide a better product to the state and public agencies. It is also in the public's interest to continue to receive a return on the investment made in Stephan's professional development during his time with INDOT.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

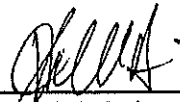
As a professional engineer, most relevant outside employment opportunities for Mr. Summers would have to undergo ethics scrutiny and some would be prohibited. Stephan is the sole income earner for his family. Failure to approve this waiver would severely limit his subsequent employment opportunities and cause a severe economic hardship for Mr. Summers and his plans for his future.

(REST OF PAGE 4 LEFT INTENTIONALLY BLANK)

C. Signatures

1. Appointing Authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee who obtains the waiver before engaging in the conduct that would give rise to a violation.

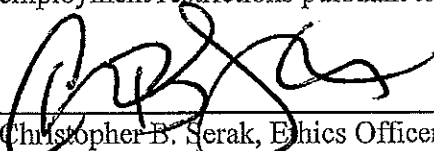


Joseph McGuinness, Commissioner
INDIANA DEPARTMENT OF TRANSPORTATION

7/5/2018
DATE

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).



Christopher B. Serak, Ethics Officer
INDIANA DEPARTMENT OF TRANSPORTATION

7/5/2018
DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission

Mail to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.