

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
January 10, 2019**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:02 a.m. Commission members present included Corinne Finnerty, Sue Anne Gilroy, Priscilla Keith, and Katherine Noel. Staff present included Jennifer Cooper, Ethics Director; Lori Torres, Inspector General; Tiffany Mulligan, Chief Legal Counsel; Kelly Elliott, Staff Attorney, Heidi Adair, Staff Attorney; and Cindy Scruggs, Director of Administration, Office of Inspector General.

Others present were Stephanie Mullaney, Deputy Attorney General, OAG; Rachel Russell, Deputy General Counsel, DCS; Sarah Kamhi, Assistant General Counsel, DOR; Molly Craft, Commission Director, SBOE; Beth Green, General Counsel, DWD; Tammera Glickman, Assistant General Counsel, IDOA; Whitney Fritz, Attorney, DCS; Deana Smith, Ethics Officer, ISDH; Manda Clevenger, Attorney and Privacy Officer, ISDH; Chris Kulik, Staff Attorney, ISDH; Tim Schultz, General Counsel, SBOE; and Matt Voors, Executive Director, SBOE

II. Selection of Acting Chair

A motion was made by Commissioner Finnerty to appoint Commissioner Noel as acting chair for the January 10, 2019, Commission meeting. Commissioner Gilroy seconded, and the motion passed. (4-0)

III. Adoption of Agenda and Approval of Minutes

Commissioner Gilroy moved to adopt the Agenda and Commissioner Keith seconded the motion which passed. (4-0) Commissioner Finnerty moved to approve the Minutes of the December 13, 2018, Commission Meeting and Commissioner Gilroy seconded the motion which passed. (4-0)

IV. Inspector General’s Report

Inspector General Torres presented a Fourth Quarter (Q4) and Year End report to the Commission. IG Torres reported that the OIG attorneys issued 83 IAOs in Q4, and 321 IAOs for 2018. She also reported that the OIG received 73 requests to investigate in Q4 and 341 requests in 2018. She further reported that the OIG opened 16 new investigations in Q4 and opened a total of 65 in 2018. The OIG also closed 15 investigations in Q4 and closed a total of 52 cases in 2018. IG Torres noted that 38 of the 52 closed case reports were published on the OIG website in an effort to increase transparency.

IG Torres provided the KPI's for Q4 and 2018. The number of IAOs requested in Q4 was 85 and the 2018 total was 363. The average number of business days to provide an IAO in Q4 was 1.0 days and 1.2 days for 2018. In Q4 the OIG made 11 recommendations (in 6 reports) to reduce waste, inefficiency, fraud, and improve integrity. The OIG made 38 such recommendations in 2 confidential reports in 2018.

IG Torres also reported on the Commission's work in 2018. The Commission heard and approved 6 post-employment waivers, and issued 18 Formal Advisory Opinions. The OIG also brought 2 formal matters before the Commission in 2018. One of these matters was resolved through a settlement agreement approved by the Commission and one is still pending.

**V. Request for Formal Advisory Opinion: Post Employment Restrictions
2019-FAO-001 Matthew Voors, Executive Director
Timothy Schultz, Ethics Officer
Indiana State Board of Education**

Timothy Schultz, Ethics Officer for the State Board of Education (SBOE), is requesting a Formal Advisory Opinion on behalf of Matthew Voors, Executive Director for the SBOE. Mr. Voors recently received an employment offer from Project Lead the Way (PLTW).

The SBOE was established by the Indiana General Assembly and oversees K-12 education policymaking in the State. The bipartisan board is composed of eleven (11) members, one of whom is the Superintendent of Public Instruction, and ten (10) others who are appointed.

As the Executive Director for the SBOE, Mr. Voors' responsibilities include the following:

- Act as the liaison between the SBOE and the Indiana Department of Education (IDOE);
- Handle logistical, administrative and technical duties for the SBOE, including the SBOE website and SBOE meetings;
- Work with IDOE staff to create SBOE agendas and meeting materials in advance of each SBOE meeting;
- Compile and monitor the accuracy of the documents and other materials needed for SBOE agenda items;
- Act as an advisor to the SBOE on special education and other underserved populations;
- Respond to requests for technical support from SBOE members during and between SBOE meetings;
- Serve as the appointing authority for purposes of Indiana Code 4-2-6 and 42 IAC (ethics and conflicts of interest);
- Conduct educator outreach and engagement;
- Execute and deliver any documents on behalf of the SBOE related to matters that require SBOE action, including hearings and adjudications;

- Negotiate and execute contracts and contract amendments under \$75,000 subject to certain restrictions and approval;
- Direct work of General Counsel; and
- Perform any other duties as specifically requested by the SBOE.

Finally, the Executive Director has the authority to delegate any function, authority or task to any person as he may deem necessary or desirable to effectively perform his duties or tasks for the SBOE.

The Executive Director participates in the negotiation and administration of all SBOE contracts. Further, although the Executive Director does not make any final regulatory or licensing decisions on behalf of the SBOE, as the SBOE members are the final decision-makers for such matters, he may be involved in the discussions with SBOE members prior to final actions taken by the SBOE members. Additionally, to the extent that such matters arise during the course of the SBOE's regular administrative functions, the Executive Director may be involved in the review, processing, and decision making of any applications, business transactions, general claims, contracts, administrative determinations, enforcement proceedings, SBOE investigations, judicial proceedings, lawsuits, licensing issues, economic development projects, and/or public works projects.

PLTW is a non-profit organization headquartered in Indianapolis that provides science, technology, engineering, and math programs nationwide. PLTW creates programs that assist students to develop skills, such as problem solving, critical and creative thinking, collaboration, and communication. As part of developing the programs referenced above, PLTW provides teachers with professional development and the continual support and resources they need to implement the program with fidelity to the engaging activity, project, and problem-based (APB) instructional design model.

PLTW contracts with individual schools and school corporations to provide access to its learning programs, services and resources. Currently, Dr. Vince Bertram serves as President and Chief Executive Officer of PLTW. Dr. Bertram served as a member of the SBOE from May of 2015, until November of 2018.

As the Vice President of Legal Affairs for PLTW, Mr. Voors' primary duties and responsibilities will be to support the Chief Legal and Assessment Officer with managing the design and execution of PLTW legal instruments and strategy. This position will work collaboratively across the organization and especially closely with team members from Legal, Finance, Operations, Engagement and Programs to support continued growth and development and mitigate risk. Specifically, the job description for the Vice President of Legal Affairs provides that he/she shall do the following:

- Participate and assist in the definition and development of policies, procedures, and programs;
- Provide general business and practical advice concerning business operations;

- Draft memorandums regarding potential outcomes and/or effects of business transactions;
- Review and update agreements associated with business activities within company standards and policies;
- Write contractual agreements;
- Review, draft, and negotiate contract agreements;
- Conduct necessary legal research;
- Ensure that PLTW conducts its business in compliance with all applicable laws and regulations;
- Proactively review internal legal documents and recommend updates in accordance with PLTW strategy;
- Perform such other duties as are incidental to the position of Senior Vice President/Chief Legal and Assessments Officer and as are reasonably assigned by the Chief Executive Officer; and
- Perform other duties as assigned.

Mr. Voors will not serve as a lobbyist or perform any actions as a lobbyist on behalf of PLTW.

Since learning of the position at PLTW, Mr. Voors has worked with Mr. Schultz, as the SBOE Ethics Officer and General Counsel, to develop a screening procedure to ensure he was removed from any issue involving or relating to PLTW. Mr. Schultz also requested an informal advisory opinion from the Office of Inspector General (OIG) for guidance regarding the application of the post-employment rule to Mr. Voors' opportunity with PLTW. The informal advisory opinion issued by the OIG advised that the post-employment restrictions in the Code would not apply to Mr. Voors' employment opportunity with PLTW, but that he would need to be mindful of potential conflicts of interests under IC 4-2-6-9. Mr. Schultz and Mr. Voors filed the Conflicts of Interests - Decisions and Voting Ethics Disclosure Form with the OIG to ensure full compliance with IC 4-2-6-9(b).

The advisory opinion stated the following analysis:

Mr. Voors' post-employment opportunity with PLTW implicates the provisions of the Code pertaining to confidential information, conflicts of interests, and post-employment. The application of each provision to Mr. Voors' prospective post-employment opportunity with PLTW is analyzed below.

A. Confidential Information

IC 4-2-6-6 prohibits Mr. Voors from accepting any compensation from any employment, transaction, or investment that was entered into or made as a result of material information of a confidential nature. Based on the information provided, it does not appear that Mr. Voors would utilize confidential information in his potential employment with PLTW. So long as any compensation Mr. Voors receives does not result from confidential information, his potential employment with PLTW would not appear to violate IC 4-2-6-6.

B. Conflicts of Interests

IC 4-2-6-9(a)(1) prohibits Mr. Voors from participating in any decision or vote, or matter related to any such decision or vote, if he has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(4) prohibits Mr. Voors from participating in any decision or vote, or matter related to any such decision or vote, in which a person or organization with whom he is negotiating or has an arrangement concerning prospective employment has a financial interest in the outcome of the matter. The definition of financial interest in IC 4-2-6-1(a)(11) includes, “an interest arising from employment or prospective employment for which negotiations have begun.”

In this case employment negotiations have already begun, as PLTW offered Mr. Voors the position of Vice President of Legal Affairs. Accordingly, a conflict of interests would arise for Mr. Voors if he participates in a decision or vote, or matter related to such decision or vote, in which PLTW would have a financial interest in the outcome.

IC 4-2-6-9(b) requires a state employee who recognizes a potential conflict of interests to notify his agency’s appointing authority and ethics officer and either (1) seek a formal advisory opinion from the Commission; or (2) file a written disclosure form with the OIG.

Mr. Voors notified Mr. Schultz and his appointing authority, Governor Holcomb, through his Chief of Staff Earl Goode, and Mr. Schultz filed the Conflicts of Interests - Decisions and Voting Ethics Disclosure Form with the OIG on December 12, 2018.

The Commission finds that Mr. Voors has complied with this rule and so long as he continues to not participate in any decision or vote, or matter related to any such decision or vote, in which PLTW has a financial interest in the outcome of the matter for the remainder of his state employment, he will not be in violation of this rule.

C. Post-Employment

IC 4-2-6-11 consists of two separate limitations: a “cooling off” period and a “particular matter” restriction. The first prohibition, commonly referred to as the cooling off or revolving door period, prevents Mr. Voors from accepting employment from an employer for 365 days from the date that he leaves state employment under various circumstances.

First, Mr. Voors is prohibited from accepting employment as a lobbyist for the entirety of the cooling off period. A lobbyist is defined as an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under the rules adopted by the Indiana Department of Administration (IDOA).

Mr. Voors has represented that he will not engage in any lobbying activities in his prospective employment with PLTW. To the extent that Mr. Voors does not engage in executive branch lobbying for one year after leaving state employment, his intended employment with PLTW would not violate this provision of the post-employment rule.

Second, Mr. Voors is prohibited from accepting employment for 365 days from the last day of his state employment from an employer with whom 1) he engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of the contract. Based on the information provided by Mr. Schultz, the SBOE has not had any active contracts or contract negotiations with PLTW during the course of Mr. Voors' employment with the SBOE.

The Commission finds that Mr. Voors neither engaged in the negotiation or administration of any contract between the State and PLTW, nor was he in a position to make a discretionary decision affecting the outcome of the negotiation or administration of any contract with PLTW.

Accordingly, the Commission further finds that Mr. Voors is not prohibited under this provision from accepting employment with PLTW immediately upon leaving state employment.

Third, Mr. Voors is prohibited from accepting employment for 365 days from the last day of his state employment from an employer for whom he made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary.

Mr. Schultz provides that the board members of the SBOE make all final regulatory or licensing decisions, but the Executive Director may participate in discussions leading up to these decisions. Regardless, to the best of his knowledge, Mr. Voors has not participated in any such decisions and the SBOE has not made any regulatory or licensing decisions that directly applied to PLTW, its parent company, or any of its subsidiaries during Mr. Voors' tenure with the Board. As such, the restriction in subsection 3) does not appear apply to his prospective position with PLTW.

Based on the information provided, Mr. Voors has never made a regulatory or licensing decision that directly applied to PLTW during the course of his state employment. Accordingly, the Commission finds that he is not prohibited under this provision from accepting employment with PLTW immediately upon leaving state employment.

Fourth, Mr. Voors is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence him in his official capacity as a state employee. The information presented to the Commission does not suggest that the offer of employment from PLTW was extended to Mr. Voors in an attempt to influence him in his capacity as a state employee.

Finally, Mr. Voors is subject to the post-employment rule's "particular matter" prohibition in his prospective post-employment. This restriction prevents him from representing or assisting a person on any of the following twelve matters if he personally and substantially participated in the matter as a state employee: 1) an application, 2) a business transaction, 3) a claim, 4) a contract, 5) a determination, 6) an enforcement proceeding, 7) an investigation, 8) a judicial proceeding, 9) a lawsuit, 10) a license, 11)

an economic development project, or 12) a public works project. The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

Mr. Voors has not identified any particular matters. The Commission finds that Mr. Voors must ensure compliance with the particular matter restriction and refrain from assisting PLTW or any other person on any of the particular matters listed above in which he may have participated personally and substantially during his state employment regardless of whether it involves PLTW.

The Commission found that Mr. Voors' post-employment opportunity with PLTW would not violate the post-employment restrictions found in IC 4-2-6-11.

Commissioner Gilroy moved to approve the Commission's finding, and Commissioner Keith seconded the motion which passed. (4-0)

**VI. Consideration of Final Report
In the Matter of Arvin Copeland/Case Number 2017-10-0234
Kelly Elliott, Staff Attorney
Office of Inspector General**

State Ethics Director Jen Cooper presented the Final Report draft to the Commission for their approval, reminding them that they had approved the settlement agreement in this case at their December meeting and that the Final Report would be the final disposition in this case.

Commissioner Keith made a motion to approve the final report. Commissioner Finnerty seconded the motion which passed. (4-0)

VII. 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 14. Ms. Cooper also reported that the OIG was in the middle of processing annual Financial Disclosure Statements and ensuring that employees and officers who are required to file the annual Financial Disclosure Statement do so before the deadline on February 1, 2019.

VIII. Adjournment

Commissioner Finnerty moved to adjourn the public meeting of the State Ethics Commission and Commissioner Keith seconded the motion, which passed (4-0).

The public meeting adjourned at 10:26 a.m.