

**MINUTES OF THE MEETING OF  
THE INDIANA STATE ETHICS COMMISSION  
August 12, 2021**

**I. Call to Order**

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:00 a.m. The meeting was held virtually using Microsoft Teams. Commission members present were Katherine Noel, chair; Sue Anne Gilroy; Corinne Finnerty; and Rafael Sanchez. Staff present included David Cook, Inspector General; Tiffany Mulligan, Chief Legal Counsel, Office of Inspector General; Jennifer Cooper, State Ethics Director; Mark Mitchell, Director of Investigations, Office of Inspector General; Luba Gore, Staff Attorney, Office of Inspector General; Mark Mader, Staff Attorney, Office of Inspector General; Cindy Scruggs, Administrative Director, Office of Inspector General; Mike Lepper, Investigator, Office of Inspector General; and Nathan Baker, Legal Assistant, Office of Inspector General.

Others present were: Tammera Glickman, Deputy General Counsel, Indiana Department of Administration; Sylvia Watson, General Counsel and Ethics Officer, Indiana State Library; Ed Feigenbaum, Indiana Legislative Insight; Jessica Keyes, Ethics Officer, Family and Social Services Administration; Mattheus Mitchel, Compliance and Ethics Specialist, Department of Revenue; Kristi Shute, Deputy General Counsel and Ethics Officer, Indiana Department of Homeland Security; Christine McDonald, Internal Affairs Officer, Department of Child Services; Jameson Berry, Director of Industrial Compliance – IOSHA, Department of Labor; Amber Nicole Ying, Director/Special Counsel, Compliance and Ethics and Ethics Officer, Department of Revenue; Tony Hardman, General Counsel, Indiana Department of Labor; Victoria Wilkinson, 4L McKinney Law Student, Summer Extern at the Indiana State Library; Beth Green, General Counsel/Ethics Officer, Department of Workforce Development; Daniel Rusyniak M.D., Secretary, FSSA; Dale Gick, Director of Engineering, Department of Revenue; Justin Paicely, Deputy General Counsel/Ethics Officer, Department of Revenue; Cheryl Whitfield, Whistleblower/Intake Specialist, Department of Labor; Keith Beesley, Attorney, State Personnel Department; Holly Hays, Social Services Reporter, IndyStar; Matthew Tarkington, Attorney for Megan Arszman-Weisbrodt; and John Walls, Ethics Officer and Chief Counsel of Advisory, Attorney General.

**II. Adoption of Agenda and Approval of Minutes**

Commissioner Sanchez moved to adopt the Agenda and Commissioner Gilroy seconded the motion which passed (4-0).

Commissioner Gilroy moved to approve the Minutes of the June 10, 2021, Commission Meeting and Commissioner Sanchez seconded the motion which passed (4-0).

### **III. Consideration of Waiver of Post-Employment Restrictions for Dale Gick**

Justin A. Paicely, Deputy General Counsel of the Indiana Department of Natural Resources presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

Commissioner Gilroy moved to approve the Waiver, and Commissioner Sanchez seconded the motion which passed (5-0).

### **IV. Request for Formal Advisory Opinion**

2021-FAO-007

Dr. Dan Rusyniak, FSSA Secretary

Jessica Keyes, Staff Attorney and Ethics Officer

Indiana Family and Social Services Administration

Jessica Keyes is the Ethics Officer for the Indiana Family and Social Services Administration (FSSA). Ms. Keyes is requesting an advisory opinion on behalf of Dr. Daniel Rusyniak, the recent Chief Medical Officer and the new Secretary of FSSA. Specifically, Ms. Keyes is requesting an opinion from the Commission to ensure that Dr. Rusyniak's continued outside employment/professional activity with Eskenazi Health and Indiana University (IU) School of Medicine is acceptable under the Code while he is employed in his new role as Secretary of FSSA.

Dr. Rusyniak appeared before the Commission in 2018 when he became the Chief Medical Officer for FSSA regarding this same outside employment. In 2018-FAO-017, the Commission found that his outside employment opportunities would not create any conflicts of interests under the Code and that he could continue in these positions while serving as Chief Medical Office for FSSA. Recently, Dr Rusyniak was promoted to Secretary of FSSA, effective August 1, 2021, and out of an abundance of caution, due to his new role within the agency, Dr. Rusyniak is requesting an updated opinion regarding continued outside employment with Eskanazi Health and his faculty position with IU School of Medicine.

Dr. Rusyniak was the Chief Medical Officer for FSSA from August 6, 2018, to July 30, 2021. During this time, after approval from the Commission through 2018-FAO-017, Dr. Rusyniak has worked in the emergency department of Eskanazi Health. Dr. Rusyniak wishes to continue this outside employment as he transitions to his new role as Secretary of FSSA. Dr. Rusyniak is also on temporary leave from IU School of Medicine, but he maintains a faculty position; he would like to maintain this position moving forward in his role as Secretary of FSSA as well.

As Chief Medical Officer for FSSA, Dr. Rusyniak's duties included providing leadership to the medical directors in each FSSA division and providing expertise and leadership to the agency, including policy advising and program planning. Dr. Rusyniak's role as Chief Medical Officer did not include any contract administration or rulemaking.

Dr. Rusyniak would like to continue to work a few evenings a month in the emergency department at Eskenazi Health while serving in his new role as Secretary of FSSA. Dr.

Rusyniak believes that it is important for him to continue working in the emergency room to maintain his skills through patient contact, which has aided him in his role as Chief Medical Officer and would continue to benefit him in his new role as Secretary. Eskenazi Health partners with the IU School of Medicine and serves as the public hospital division of the Health and Hospital Corporation of Marion County. Eskenazi is a safety-net hospital, meaning that it provides health care and other related services to the uninsured, Medicaid-recipients and other vulnerable populations regardless of ability to pay. Continuing to work shifts in the emergency department at Eskenazi Health would allow Dr. Rusyniak to have real world access to issues that are presented in the health care setting, which would be helpful in his role as FSSA Secretary in addressing the same issues.

Dr. Rusyniak has and will continue to pay for his own licensing fees and certifications. He has not and will not serve in a managerial or leadership role with Eskenazi Health or Indiana University Health Physicians (IU Health Physicians), his direct employer. Dr. Rusyniak is considered a supplemental employee, and IU Health Physicians will pay him for his work at Eskenazi Health on an hourly basis, rather than billing patients or insurance.

Eskenazi Health and IU Health Physicians are Indiana Medicaid Providers. Each has an Indiana Medicaid Provider Agreement with FSSA, and both receive Medicaid reimbursements. Eskenazi Health does not have a direct contract with FSSA; however, its community mental health center is certified by FSSA's Division of Mental Health and Addiction. Additionally, IU Health Physicians is affiliated with Indiana University Health (IU Health), and FSSA's various divisions have six active contracts with IU Health, Indiana University and related entities. The contracts are at the division level in FSSA, and the FSSA divisions have ownership of the contracts. As Secretary, Dr. Rusyniak would not be in a position to negotiate or sign these contracts. To avoid a potential conflict under IC 35-44.1-1-4, neither Eskenazi Health nor IU Health Physicians will use funds from contracts with FSSA to pay Dr. Rusyniak; however, his fees may be paid from general Medicaid funds.

Pursuant to IC 12-8-1.5-10.5, the Office of the FSSA Secretary is designated as the single state agency for administration of the State's Medicaid program under IC 12-15. As such the Office of the FSSA Secretary develops and coordinates Medicaid policy for the State. Therefore, the FSSA Secretary may make decisions affecting Medicaid providers; however, his decisions would apply broadly to all Medicaid providers uniformly and not specifically to Medicaid providers at Eskenazi or IU Health Physicians. For example, if reimbursement rates were revised for Medicaid providers, such changes would apply uniformly to all relevant Medicaid providers. Additionally, while Eskenazi Health or IU Health Physicians may have infrequent issues to address specifically with FSSA, there is little direct contact between these institutions and FSSA generally.

Accordingly, it is unlikely that FSSA would make a decision that would have a unique impact on Eskenazi Health or IU Health Physicians; however, should there be a situation whereby Dr. Rusyniak, in his role as Secretary, would need to make a decision related specifically and solely to Eskenazi Health or IU Health Physicians, Dr. Rusyniak understands and acknowledges that pursuant to IC 4-2-6-9, he will be screened from participating in any decision or vote, or matter relating to that decision or vote in which Eskenazi Health or IU Health Physicians would have a financial interest in the outcome.

Dr. Rusyniak also would like to maintain his appointment at the IU School of Medicine while employed by FSSA. Dr. Rusyniak had formerly taken a temporary leave of absence from the medical school that permits him to retain his title and the full rights of a faculty member. During his leave of absence, Dr. Rusyniak will not receive any benefits or salary from the IU School of Medicine; however, he will be required to continue to abide by the professional standards of the medical school to remain a faculty member in good standing. This leave of absence is renewed annually.

Dr. Rusyniak also understands that he has a duty to maintain confidential information learned through his employment with the State and that he is prohibited from divulging confidential information or allowing anyone, including but not limited to Eskenazi Health and IU Health Physicians, from benefiting from the same.

Dr. Rusyniak further understands that he cannot use state time for outside employment with either Eskenazi Health or the medical school. Dr. Rusyniak plans to continue the emergency department shifts during off work time such as evenings or weekends.

The previous Secretary of FSSA, Dr. Sullivan, also sought a formal advisory opinion from the Commission for a similar situation wherein she worked shifts at Riley Hospital for Children (Riley) during her tenure at FSSA. The Commission found in that instance, after careful consideration of several factors, that Dr. Sullivan did not have any conflict of interests under the Code and would be able to continue her outside employment with Riley while serving as Secretary.

Ms. Keyes provides that Dr. Rusyniak's situation is analogous in many ways to Dr. Sullivan's work at Riley. Further, there are no changes to Dr. Rusyniak's outside employment duties, which the Commission previously approved. He and Ms. Keyes are seeking a formal opinion regarding whether his change in roles within FSSA would impact the permissibility of his outside employment opportunities under the Code.

The analysis stated the following:

Ms. Keyes' request for a formal advisory opinion invokes consideration of the provisions of the Code pertaining to Conflicts of Interests, Use of State Property, Ghost Employment and Benefitting from and Divulging Confidential Information. The application of each provision to Dr. Rusyniak is analyzed below.

#### *A. Outside employment*

An outside employment or professional activity opportunity creates a conflict of interests under IC 4-2-6-5.5 if it results in the employee: 1) receiving compensation of substantial value if the responsibilities of the employment are inherently incompatible with the responsibilities of public office or require the employee's recusal from matters so central or critical to the performance of his official duties that his ability to perform them would be materially impaired; 2) disclosing confidential information that was gained in the course of state employment; or 3) using or

attempting to use his official position to secure unwarranted privileges or exemptions of substantial value that are not properly available to similarly situated individuals outside state government.

Based on the information provided by Ms. Keyes, Dr. Rusyniak's employment at Eskenazi Health would not create a conflict of interests for him under this provision. Dr. Rusyniak would not serve in a supervisory or leadership role with the hospital; he would be working as a physician on an hourly basis and would not have a managerial or leadership role. According to Ms. Keyes, Dr. Rusyniak's responsibilities at Eskenazi Health would not conflict with his responsibilities at FSSA and would not require him to recuse himself from matters that are critical to the performance of his duties as Secretary of FSSA.

His other outside employment/professional activity would not provide Dr. Rusyniak with compensation of a substantial value. Dr. Rusyniak is taking a leave of absence from his position with IU School of Medicine and will not receive any benefits or salary during this time.

Ms. Keyes provides that Dr. Rusyniak understands that he is prohibited from disclosing confidential information that he may have access to by virtue of his state employment in any of his outside positions. Nothing in the information presented suggests that Dr. Rusyniak would use or attempt to use his state position for any unwarranted privileges or exemptions. Dr. Rusyniak held both of these outside positions prior to becoming the Chief Medical Officer, and now the Secretary, for FSSA.

Accordingly, the Commission finds that Dr. Rusyniak's outside employment positions with Eskenazi Health and IU School of Medicine would not create a conflict of interests for him under IC 4-2-6-5.5.

#### *B. Conflict of interests - decisions and votes*

IC 4-2-6-9 (a)(1) prohibits Dr. Rusyniak from participating in any decision or vote, or matter relating to that decision or vote, if he has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(3) prohibits Dr. Rusyniak from participating in any decision or vote, or matter relating to that decision or vote, if he or a business organization which employs him has a financial interest in the matter. IC 4-2-6-9(b) requires that an employee who identifies a potential conflict of interests notify his or her Ethics Officer and Appointing Authority and seek an advisory opinion from the Commission or file a written disclosure statement.

Dr. Rusyniak will now be serving as Secretary of FSSA and will be working a few shifts per month in the emergency department at Eskenazi Health. Dr. Rusyniak will serve as a supplemental (hourly) employee at Eskenazi Health through IU Health Physicians, which is affiliated with IU Health.

Accordingly, Dr. Rusyniak would have a potential conflict of interests if he participates in decisions or votes, or matters related to such decisions or votes, in which he, Eskenazi Health, IU Health Physicians or IU Health would have a financial interest in the outcome.

Eskenazi Health does not have any direct contracts with FSSA; however, its community mental health center is certified by FSSA's Division of Mental Health and Addiction. Additionally, FSSA's various divisions have six active contracts with IU Health and related entities. Ms. Keyes provides that these contracts are at the division level in FSSA and that the division directors are the owners of the contracts, not the Secretary.

Eskenazi Health and other IU Health-affiliated facilities serve Medicaid patients. FSSA is the state agency responsible for administering the Medicaid program; however, any decisions that Dr. Rusyniak would make regarding Medicaid would be broad in scope and would affect all Medicaid providers uniformly. Ms. Keyes does not anticipate that Dr. Rusyniak would ever be in a position to participate in a decision or vote in which Eskenazi Health, IU Health Physicians or IU Health, would have a unique financial interest.

The Commission finds that Dr. Rusyniak does not have an identified potential conflict of interests at this time; however, in the event that any matters in which a decision made by Dr. Rusyniak as Secretary could uniquely affect Eskenazi Health, IU Health Physicians or IU Health arise, FSSA must be prepared to institute a screening mechanism whereby it would delegate any decisions, and matters related to such decisions, in which Eskenazi Health, IU Health Physicians or IU Health would have a unique financial interest in the outcome to the Deputy Secretary.

### *C. Conflict of interests – contracts*

Pursuant to IC 4-2-6-10.5, a state employee may not knowingly have a financial interest in a contract made by an agency. This prohibition, however, does not apply to an employee that does not participate in or have contracting responsibility for any of the activities of the contracting agency, provided certain statutory criteria are met.

Ms. Keyes provides Eskenazi Health does not have any direct contracts with FSSA; however, FSSA's various divisions have six active contracts with IU Health and related entities.

Ms. Keyes provides that in order to avoid any conflicts under IC 35-44.1-1-4 (the criminal conflict of interests statute), IU Health Physicians will not use funds from these contracts with FSSA to pay Dr. Rusyniak. She notes that his fees may be paid from general Medicaid funds; such funds are not considered to be derived from a state contract.

The Commission finds that FSSA has taken the appropriate steps to ensure Dr. Rusyniak will not have a conflict of interests under both the Code and Indiana criminal code and that Dr. Rusyniak would not have a financial interest in a state contract that would create a conflict of interests.

#### *D. Confidential information*

Dr. Rusyniak is prohibited under 42 IAC 1-5-10 and 42 IAC 1-5-11 from benefitting from, permitting any other person to benefit from or divulging information of a confidential nature except as permitted or required by law. Similarly, IC 4-2-6-6 prohibits Dr. Rusyniak from accepting any compensation from any employment, transaction or investment that is entered into or made as a result of material information of a confidential nature. The term “person” is defined in IC 4-2-6-1(a)(13) to encompass both an individual and a corporation, such as IU Health. In addition, the definition of “information of a confidential nature” is set forth in IC 4-2-6-1(a)(12).

To the extent Dr. Rusyniak is exposed to or has access to such confidential information in his new position as Secretary of FSSA, he would be prohibited not only from divulging that information but from ever using it to benefit any person, including any of his outside employers, in any manner.

#### *E. Use of state property and Ghost employment*

42 IAC 1-5-12 prohibits Dr. Rusyniak from using state property for any purpose other than for official state business unless the use is expressly permitted by a general written agency, departmental or institutional policy or regulation that has been approved by the Commission. Likewise, 42 IAC 1-5-13 prohibits Dr. Rusyniak from engaging in, or directing others to engage in, work other than the performance of official duties during working hours, except as permitted by general written agency, departmental or institutional policy or regulation.

To the extent that Dr. Rusyniak observes these provisions regarding his outside employment/professional activities, his outside positions would not violate these ethics laws.

Commissioner Finnerty moved to approve the Commission’s findings, and Commissioner Gilroy seconded the motion which passed (4-0).

#### **V. Request for Formal Advisory Opinion**

2021-FAO-008

Cheryl Whitfield, Whistleblower/Intake Specialist

J. Anthony Hardman, General Counsel and Ethics Officer

Indiana Department of Labor

J. Anthony Hardman serves as General Counsel and Ethics Officer for the Indiana Department of Labor (IDOL). Mr. Hardman is requesting an advisory opinion on behalf of Cheryl Whitfield, candidate for the IDOL position of Whistleblower/Intake Supervisor (Supervisor) with IDOL’s Indiana Occupational Safety and Health Administration (IOSHA). Specifically, Mr. Hardman is seeking the Commission’s opinion addressing whether Ms. Whitfield would have a conflict of interests under the Code if she were to accept the Supervisor position with IDOL and maintain an interest in her outside business. Her business is a professional services contractor specializing in Occupational Safety and Health Compliance Management that offers safety solutions to help

workers follow company policies and standard operating procedures so that employers can comply with applicable safety and health codes.

Ms. Whitfield is the sole owner of a company called Code-Keepers, LLC (Code-Keepers). Code-Keepers was registered with the Indiana Secretary of State in June 2017 and currently has an Active status. Code-Keepers creates safety plans for companies based on OSHA requirements for Hazard Communication, Emergency Action Plan, Fire Safety, Exit Routes, Walking/Working Surfaces, Medical and First Aid, Recordkeeping and more.

The services that Code-Keepers offers are similar to the services that IDOL's health and safety consultation division, INSafe, currently offers to Indiana employers free of charge; however, there should be no internal dealings between INSafe and the Supervisor position, and Mr. Hardman does not anticipate a conflict of interests for Ms. Whitfield in this regard. Currently Code-Keepers has only one client and has one company with whom it recently spoke; however, it does not yet have a contract with this second company. Code-Keepers is an Indiana Department of Transportation (INDOT) certified Disadvantaged Business Enterprise/Airport Disadvantaged Business Enterprise (DBE/ACDBE) and an Indiana Department of Administration (IDOA) approved Minority/Women Business Enterprise (M/WBE). Code-Keepers is registered on INDOT's and IDOA's Contractor/Vendor Listings for working with state-certified contractors and General Industry employers. It also has a website and social media pages.

The Supervisor position, among other things, requires the review of complaints and referrals provided to IDOL about potential health and safety hazards that are alleged to exist at places of employment across the State of Indiana. The Supervisor then makes a decision regarding the next steps for the complaint or referral, including if an on-site inspection is to be assigned to an IOSHA compliance officer. The Supervisor also makes decisions regarding whether whistleblower complaints against employers across the State of Indiana meet the prima facie elements to warrant an investigation and ultimately if the complaint has merit. The Supervisor has other responsibilities that include supervising and training IDOL intake staff, team leaders and whistleblower investigators as well as having a shared responsibility to assist in training new compliance officers.

IDOL proposes that it put screens in place to prevent Ms. Whitfield from having to make a decision in her capacity as Supervisor regarding a client or prospective client of Code-Keepers. Ms. Whitfield has already provided IDOL with a current client list, and she agrees to update that list whenever Code-Keepers begins to establish a business relationship with a new client. IDOL proposes that it will compare every employer that is reported to IDOL as having a potential health and safety hazard or has a whistleblower complaint against Code-Keeper's client list. If a reported employer is not on the list, Ms. Whitfield will be able to execute her duties as usual; however, if a reported employer is on the list or is otherwise a client or potential client of Code-Keepers, IDOL will route the decisions to be made regarding those complaints or referrals through other IDOL personnel who are capable of making those decisions.

Ms. Whitfield also understands and agrees that she shall not use her IDOL position to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals outside of state government. Specifically, she shall not use information she obtains regarding reported employers to build a prospective client list for Code-



Keepers or to contact the employers for any purpose other than for IDOL business in her capacity as Supervisor during IDOL work hours. She also understands and agrees that she shall not use her position as Supervisor with IDOL to obtain clients for Code-Keepers or to benefit the business in any way. This includes not mentioning or posting her position as Supervisor publicly so that clients or potential clients of Code-Keepers do not know she works for IDOL. Finally, she understands and agrees to comply with the ghost employment, use of state property and confidential information provisions of the Code.

Mr. Hardman and Ms. Whitfield would like the Commission's opinion on whether the proposed screen would be appropriate and permit Ms. Whitfield to continue operating her outside business if she accepts the Supervisor position with IDOL.

The analysis stated the following:

*A. Outside employment*

An outside employment or professional activity creates a conflict of interests under IC 4-2-6-5.5 if it results in the employee: 1) receiving compensation of substantial value if the responsibilities of the employment are inherently incompatible with the responsibilities of public office or require the employee's recusal from matters so central or critical to the performance of his official duties that his ability to perform them would be materially impaired; 2) disclosing confidential information that was gained in the course of state employment; or 3) using or attempting to use his official position to secure unwarranted privileges or exemptions of substantial value that are not properly available to similarly situated individuals outside state government.

A written advisory opinion issued by the Commission stating that an individual's outside employment does not violate subsection (a)(1) or (a)(2) is conclusive proof that the individual's outside employment does not violate subsection (a)(1) or (a)(2).

The Commission finds that it is unable to provide a statement that Ms. Whitfield's continued operation of her outside business would not violate subsection (a)(1) or (a)(2) once she became a state employee. The Commission has concerns about conflicts of interests under this rule and under IC 4-2-6-9 (See Section B below).

The Commission finds that in order to avoid a conflict of interests under IC 4-2-6-9, Ms. Whitfield would likely have to recuse herself from matters that are central and/or critical to the performance of her official duties such that her ability to perform them may be materially impaired. Specifically, the Commission finds that serving in the IDOL Supervisor position while simultaneously operating Code-Keepers, a business focused on assisting other businesses who are likely the subject of complaints/referrals that IDOL receives, would create an inherent conflict of interests for Ms. Whitfield under the Code. No screening mechanism could prevent this conflict of interests because, in her role as Supervisor, Ms. Whitfield would review the complaints/referrals that IDOL receives regarding these businesses and be in a position to make decisions on next steps,

Further, the Commission finds that a position with IDOL would enable Ms. Whitfield to have a perceived, if not actual, unfair advantage over competitors in identifying clients for her outside

business. Members of the public and/or competitors could see her position with IDOL in screening complaints regarding workplace safety and her simultaneous operation of her outside business in assisting companies with workplace safety compliance as her using her IDOL position to secure an unfair advantage in identifying and building a client base.

Accordingly, the Commission does not approve Ms. Whitfield's continued operation of her outside business if she were to accept the Supervisor position with IDOL.

*B. Conflict of interests - decisions and votes*

IC 4-2-6-9 (a)(1) prohibits Ms. Whitfield from participating in any decision or vote, or matter relating to that decision or vote, if she has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(3) prohibits Ms. Whitfield from participating in any decision or vote, or matter relating to that decision or vote, if she or a business organization for which she serves as an officer or employee has a financial interest in the matter. The definition of "financial interest" in IC 4-2-6-1(a)(11) includes, in part, "an interest arising from employment."

Ms. Whitfield is a candidate for the position of Supervisor at IDOL. As Supervisor, Ms. Whitfield's responsibilities would include reviewing complaints and referrals provided to IDOL about potential health and safety hazards that are alleged to exist as places of employment across the State of Indiana.

Ms. Whitfield would like to continue her operation of her business, Code-Keepers, if she accepts the Supervisor position at IDOL. Code-Keepers assists companies in creating custom safety plans and solutions so that they can comply with applicable safety and health codes for their employees.

The Commission finds that the decisions Ms. Whitfield would have to make in her IDOL capacity could have a financial impact on her outside business as her business provides services to employers related to the types of complaints and referrals for which she would be reviewing and determining any needed next steps. This presents a potential conflict of interests under IC 4-2-6-9(a).

IC 4-2-6-9(b) requires that an employee who identifies a potential conflict of interests notify his or her Ethics Officer and Appointing Authority and seek an advisory opinion from the Commission or file a written disclosure statement with the Office of Inspector General (OIG). Both options require the implementation of a screen that would ensure that the employee does not participate in matters that would create a conflict of interests.

Mr. Hardman identified this potential conflict of interests, and he has requested this formal advisory opinion and indicated that IDOL is prepared to implement a screen to ensure Ms. Whitfield is not involved in any decisions, votes or other matters in which her outside business would have a financial interest; however, the Commission finds that it would not be possible to screen Ms. Whitfield from all decisions/votes in which her business could have a financial interest in the outcome of the matter. The Commission finds that the proposed screening procedures would not prevent a conflict of interests from arising for Ms. Whitfield under IC 4-2-6-9.

The Commission finds that due to the nature of Ms. Whitfield's business, Code-Keepers, every complaint and referral she would review and make a decision as to its disposition for IDOL would identify a potential client for her business. Although the Commission appreciates IDOL's and Ms. Whitfield's efforts to adhere to the requirements of the Code and attempts to prevent a conflict of interests for Ms. Whitfield, the Commission finds that the proposed screen could never completely eliminate the potential conflict or perceived impropriety of Ms. Whitfield having access to information about every business that would be a candidate for the services that her outside business provides.

Accordingly, the Commission finds that IDOL would be unable to adequately screen Ms. Whitfield from participation in all matters in which her outside business would have a financial interest. As a result, she cannot operate her outside business while serving in the Supervisor role for IDOL without violating this rule.

Commissioner Sanchez moved to approve the Commission's findings, and Commissioner Finnerty seconded the motion which passed (4-0).

**VI. Consideration of Agreed Settlement**

In the Matter of Paul Sipples  
Case Number 2020-06-0183  
Luba Gore, Staff Attorney  
Indiana Office of Inspector General

Luba Gore presented the proposed Agreed Settlement in this matter to the Commission for their approval.

Commissioner Gilroy moved to approve the Agreed Settlement and Commissioner Sanchez seconded the motion which passed (4-0).

**VII. Consideration of Agreed Settlement**

In the Matter of Megan Arszman-Weisbrodt  
Case Number 2020-10-0310  
Luba Gore, Staff Attorney  
Indiana Office of Inspector General

Luba Gore presented the proposed Agreed Settlement in this matter to the Commission for their approval.

Commissioner Sanchez moved to approve the Agreed Settlement and Commissioner Gilroy seconded the motion which passed (4-0).

### **VIII. Consideration of Agreed Settlement**

In the Matter of Elston Boldery  
Case Number 2018-01-0019  
Tiffany Mulligan, Chief Legal Counsel  
Indiana Office of Inspector General

Tiffany Mulligan presented the proposed Agreed Settlement in this matter to the Commission for their approval.

Commissioner Gilroy moved to approve the Agreed Settlement and Commissioner Sanchez seconded the motion which passed (4-0).

### **IX. Director's Report**

State Ethics Director, Jen Cooper, indicated that Final Reports for the three Ethics Cases with Agreed Settlements that the Commission voted on at today's meeting will be presented at the next meeting for approval.

Director Cooper continued that OIG staff has issued 46 informal advisory opinions since the previous last meeting. The majority of these requests dealt with questions concerning conflicts of interests, use of state property, ghost employment, outside employment, post-employment and gifts.

She continued that a new Ethics Training for Fall 2021 is being worked on. New software is being procured and smaller modules will be created in order to facilitate ongoing training.

Finally, Director Cooper reported that the 2021 Legal and Ethics Conference has a tentative date scheduled for November 16, 2021 with hopes that it will be held in-person this year.

### **X. Adjournment**

Commissioner Sanchez moved to adjourn the public meeting of the State Ethics Commission. No second was asked for a no vote was taken.

The public meeting adjourned at 11:22 a.m.