

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
January 11, 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; Priscilla Keith (arrived late); and Katherine Noel. Staff present included Lori Torres, Inspector General; Jennifer Cooper, Ethics Director; Matthew Savage, Staff Attorney; Tiffany Mulligan, Chief Legal Counsel; Kelly Haltom, Staff Attorney, and Celeste Croft, Legal Assistant, Office of Inspector General.

Others present were Adrienne Brune, Staff Attorney/Ethics Officer, State Department of Health; Stephanie Mullaney, Deputy Attorney General, Attorney General’s Office; Scott Miley, Reporter, Community Newspaper Holdings, Inc.; Sarah Kamhi, Assistant General Counsel, Department of Revenue; Gina Williams, Deputy Director of Administration/Ethics Officer, Department of Financial Institutions; Leslie Huckleberry, General Counsel, Family & Social Services Administration; Gary Hoagland, Registered Nurse, Family & Social Services Administration; Rachel Russell, Deputy General Counsel, Department of Child Services; Tammera Glickman, Assistant General Counsel, Department of Administration; Jacqueline Tucker, Program Coordinator, Department of Child Services; Sylvia Watson, General Counsel, State Library; Daniel Perry, Assistant General Counsel, Department of Revenue; Jared Prentice, Ethics Officer, Department of Revenue; Kristina Box, State Health Commissioner, State Department of Health; Deana Smith, Attorney, State Department of Health; Jennifer O’Malley, Deputy Chief of Staff, State Department of Health; Hilari Sautbine, Attorney, State Department of Health; and Whitney Fritz, Attorney, State Department of Health.

II. Adoption of Agenda and Approval of Minutes

Commissioner Finnerty moved to adopt the Agenda and Commissioner Noel seconded the motion which passed (3-0). Commissioner Noel moved to approve the Minutes of the November 15, 2017 Commission Meeting and Commissioner Finnerty seconded the motion which passed (3-0).

III. Inspector General’s Report

Inspector Torres stated that in Quarter Four of Calendar Year 2017, which ran from October 1, 2017 through December 31, 2017, the Office of Inspector General issued 107 Informal Advisory Opinions, as opposed to the 91 Informal Advisory Opinions that the Office of Inspector General issued in Quarter Three of Calendar Year 2017, which ran from July 1, 2017 through September 30, 2017. Inspector Torres also stated that for the entire Calendar Year 2017, the total number of Informal Advisory Opinions issued by the Office of Inspector General was 371, but in 2016, the Office of Inspector General issued 318 Informal Advisory Opinions, 16.6% less than that of 2017.

Inspector Torres further stated that in Quarter Four, the average turnaround time for Informal Advisory Opinions was 1.88 days, but for 2017 itself, it was 1.4 days.

Inspector Torres then stated that the Office of Inspector General received 82 requests to investigate in Quarter Four, as opposed to the 83 requests it received to investigate in Quarter Three. Inspector Torres also stated that for Calendar Year 2017, the Office of Inspector General had received 297 total requests to investigate. Inspector Torres further stated that the Office of Inspector General opened 15 of the 82 requests to investigate it received in Quarter Four and closed 24 cases, but that it closed 70 cases for the Calendar Year 2017 and opened 54. Inspector Torres also stated that three of the aforementioned cases were brought before the State Ethics Commission during 2017. Lastly, Inspector Torres stated that as of January 1, 2018, there were 23 open investigations remaining.

As it relates to the State Ethics Commission, Inspector Torres stated there were 13 post-employment waivers heard and approved by the Commission, 13 Formal Advisory Opinions issued by the Commission, and three formal matters brought before the Commission, two of which were disposed of settlement and the other disposed of by trial, all in favor of the Office of Inspector General. Inspector Torres further stated that the Commission approved three policies, two related to the limited use of state property and one related to electronic meetings. Inspector Torres stated that of the 12 scheduled State Ethics Commission meetings, eight of them were held and four of them were canceled.

Lastly, the Inspector recapped the half-day 2017 Legal & Ethics Conference held November 14, 2017. Inspector Torres stated that there were 217 registered attendees and that 216 of those attendees attended the Conference and that there was a waitlist containing approximately 20 people. Inspector Torres stated that in total, 436 people viewed the registration page for the event, which indicated that there was a greater demand for Conference attendance than there was space available to accommodate same. The Inspector further stated that because the event was more strategically directed at particular groups, such as attorneys, and having a half-day event instead of a full day event, reduced taxpayer costs by about \$30,000.00. The Inspector thanked Chairman Clevenger, who not only attended the Conference, but was a featured speaker. The Inspector lastly stated that 63% of the attendees who were surveyed rated the Conference as Very Good or Excellent, 29% rated it as Good, and 6% rated it as Fair.

IV. Request for Formal Advisory Opinion

**2018-FAO-001 Dr. Kristina Box, State Health Commissioner
Adrienne Brune, Staff Attorney/Ethics Officer
Indiana State Department of Health**

Adrienne Brune, Ethics Officer for the Indiana State Department of Health (ISDH), requested an opinion from the Commission on behalf of Dr. Kristina Box, State Health Commissioner. Dr. Box began her employment with the ISDH on October 16, 2017.

Prior to becoming the ISDH Commissioner, Dr. Box served as an Obstetrician-Gynecologist (OB-GYN) at Community Hospital. Dr. Box has worked in the Community Health Network as an OB-GYN for over thirty years. Dr. Box plans to continue working in this role in addition to her state employment. Under IC 16-19-4-4, Dr. Box may “in an individual capacity as a licensed physician and not in the official capacity as state health commissioner, engage in the practice of medicine if the practice of medicine does not interfere with the performance of the state health commissioner’s duties as state health commissioner.”

Ms. Brune provides that even though IC 16-19-4-4 governs Dr. Box’s ability to practice as an OB-GYN outside of her current state position, and Dr. Box does not anticipate her outside employment will interfere with her performance as State Health Commissioner, she wants to ensure she follows the letter and spirit of the provisions in the Code. Two additional matters of importance are confidentiality and salary. As to 42 IAC 1-5-10, “Benefitting from Confidential Information,” and 42 IAC 1-5-11, “Divulging Confidential Information,” the ISDH will put screening in place to avoid any issues with these rule sections. Lastly, Dr. Box has informed Ms. Brune that her outside salary is not tied to any contract or grant with the ISDH or the State.

As the State Health Commissioner, Dr. Box has general supervision for all of the ISDH. By statute (IC 16-19-4-1), the State Health Commissioner will serve as secretary, a non-voting member position, of the ISDH Executive Board. She will serve on any state board prescribed by state law. She will establish effective policy and strategy for the ISDH after consulting with staff and the Executive Board. Her work requires contact with a wide variety of entities, from hospitals to nursing homes, whether private, public, or non-profit. These are just some of the duties she will perform.

Dr. Box is employed at Community Physician Network. Community Physician Network is a part of the Community Health Network, which operates Community Hospital. The ISDH deals directly with Community Hospital. In the past, the ISDH has had contracts and/or grants with Community Hospital. Dr. Box has already been advised not to sign or negotiate any contracts involving Community Hospital, and she has been advised not to be involved in any regulatory matters involving Community Hospital. However, to address any issues that may arise due to Dr. Box’s affiliation with this entity, and to comply with the conflict of interests laws, the ISDH has established the following procedures to screen Dr. Box from all involvement with any contract or regulatory issues relating to Community Hospital:

1. Any and all contracts involving Community Hospital shall be assigned and/or negotiated by the ISDH’s Chief of Staff. If he is not available, the contract shall be assigned to one of the approved agency signatories.
2. Any and all regulatory matters involving Community Hospital shall be handled by the Deputy State Health Commissioner or the ISDH’s Chief of Staff. If either of these individuals is not available, an individual listed as an approved signatory designee of the agency will be consulted.

3. Any and all documents that require a licensed physician's signature, including isolation orders, quarantine orders, and any medical directives involving or related to Community Hospital shall be signed by the Deputy State Health Commissioner, the ISDH's Chief Medical Consultant, or the ISDH's Medical Director.
4. While this screen should prevent the Commissioner from having access to any confidential information involving Community Hospital, the Commissioner shall not benefit from or divulge such information.
5. Any other miscellaneous matters involving Community Hospital shall be handled by the Deputy State Health Commissioner or the ISDH's Chief of Staff. If either of these individuals is not available, an individual listed as an approved signatory designee of the agency will be consulted.
6. The Commissioner will contact the agency ethics officer if there are any changes in her association with Community Hospital or any other entity which has a business relationship with or is regulated by the ISDH.

The advisory opinion stated the following analysis:

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

The Commission generally defers to an agency's Ethics Officer regarding outside employment opportunities since it views them as being in the best position to determine whether a conflict of interests might exist between an employee's state duties and an outside employment opportunity. Based on the information provided by Ms. Brune, the Commission finds that Dr. Box's outside employment position would not create a conflict of interests for her under this provision. Specifically, the responsibilities of the two positions would not overlap in any meaningful way. Dr. Box would not have to disclose confidential information she gained from her state employment in her work as an OB-GYN, and Dr. Box was already employed in her outside position prior to becoming the ISDH Commissioner. Moreover, the statutory provision creating the position contemplates and allows the ISDH Commissioner to engage in outside employment as a licensed physician.

B. Conflict of interests-decisions and votes

IC 4-2-6-9 (a)(1) prohibits Dr. Box 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 Dr. Box from participating in any decision or vote, or matter relating to that decision or vote, if a business organization in which she is serving as an employee has a financial interest in the matter.

Dr. Box is the Commissioner for the ISDH. She is also employed by Community Physicians Network, a related entity of the Community Health Network, which operates Community Hospital. The ISDH has ties, including contractual ties, with Community Hospital. Accordingly, Dr. Box would have a potential conflict of interests if she participates in decisions or votes, or matters related to such decisions or votes, in which she or Community Hospital would have a financial interest in the outcome.

IC 4-2-6-9(b) provides that a state employee who identifies a potential conflict of interests shall notify the person's appointing authority and seek an advisory opinion from the Commission or file a written disclosure statement.

Ms. Brune and Dr. Box have requested this formal advisory opinion, and Ms. Brune has proposed the following procedures to screen Dr. Box from all involvement with regulatory issues relating to Community Hospital:

1. Any and all contracts involving Community Hospital shall be assigned and/or negotiated by the ISDH's Chief of Staff. If he is not available, the contract shall be assigned to one of the approved agency signatories.
2. Any and all regulatory matters involving Community Hospital shall be handled by the Deputy State Health Commissioner or the ISDH's Chief of Staff. If either of these individuals is not available, an individual listed as an approved signatory designee of the agency will be consulted.
3. Any and all documents that require a licensed physician's signature, including isolation orders, quarantine orders, and any medical directives involving or related to Community Hospital shall be signed by the Deputy State Health Commissioner, the ISDH's Chief Medical Consultant, or the ISDH's Medical Director.
4. While this screen should prevent the Commissioner from having access to any confidential information involving Community Hospital, the Commissioner shall not benefit from or divulge such information.
5. Any other miscellaneous matters involving Community Hospital shall be handled by the Deputy State Health Commissioner or the ISDH's Chief of Staff. If either of these individuals is not available, an individual listed as an approved signatory designee of the agency will be consulted.

6. The Commissioner will contact the agency ethics officer if there are any changes in her association with Community Hospital or any other entity which has a business relationship with or is regulated by the ISDH.

The Commission finds that Dr. Box's adherence to the proposed screen would prevent her from having a conflict of interests under IC 4-2-6-9 if any potential conflicts of interests arise. This screen should remain in place for the duration of her tenure as the State Health Commissioner. Should a potential conflict of interests arise for her under IC 4-2-6-9, Dr. Box must still follow the requirements in IC 4-2-6-9(b) and notify her appointing authority and file an ethics disclosure statement.

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. Because Ms. Brune provides that Dr. Box's outside salary is not tied to any contract or grant with the ISDH or the State, she would not have a prohibited financial interest. Accordingly, the Commission finds that Dr. Box would not have a financial interest in a state contract through her position at Community Physician Network and would not be in violation of this rule.

D. Confidential information

Dr. Box 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. Box from accepting any compensation from any employment, transaction, or investment which 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. 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. Box is exposed to or has access to such confidential information in her position as the ISDH Commissioner, she would be prohibited not only from divulging that information but from ever using it to benefit any person, including her outside employer, in any manner.

E. Use of state property and Ghost employment

IC 4-2-6-17 prohibits Dr. Box 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. Likewise, 42 IAC 1-5-13 prohibits Dr. Box 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. Box observes these provisions in her employment with Community Physician Network, such outside professional activity would not violate these ethics laws.

The Commission found that Dr. Box's continued employment with Community Physician Network would not be contrary to the Code of Ethics so long as she follows the screening procedures established by the ISDH.

Commissioner Noel moved to approve the Commission's findings and Commissioner Finnerty seconded the motion which passed (3-0). Commissioner Keith rescued herself from this vote, due to her Board association with Community Health.

V. Request for Formal Advisory Opinion

**2018-FAO-002 Jacqueline Tucker, Program Coordinator
Rachel Russell, Deputy General Counsel/Ethics Officer
Department of Child Services**

Jacqueline Tucker is a Program Coordinator 6 at the Indiana Department of Child Services (DCS) Child Support Bureau. In this position, she assists the agency in child support enforcement and ensures children receive financial support from their parents by collecting information using multiple resources on custodial and non-custodial parents. She also conducts investigations in complex cases, which contributes to the collection of millions of dollars distributed on delinquent open cases in child support.

Ms. Tucker would like to know whether she can accept a part-time position with Journey Support Services, LLC (Agency) as a home-based caseworker and/or supervised visit facilitator while still working full-time for DCS's Child Support Bureau. Ms. Tucker would be responsible for monitoring supervised visits with parents and children, home visits, facilitation and transportation, supporting and monitoring progress of parenting skills and other tools needed to help families with their journey to reunification.

The Agency has a contract with DCS and Ms. Tucker provides that she would be working as an employee sub-contractor for the Agency. If she takes the outside position, she will have interaction with DCS case workers for each case she is required to complete. She will not be involved in the contract process for DCS or for the outside agency, and she does not participate in any decisions or votes at DCS that involve the Agency.

Ms. Tucker completed the Department of Child Services' Supplemental Employment Authorization on October 30, 2017. Her supervisor did not approve the outside employment position and instead referred the matter to DCS' Ethics Officer, Erica Sullivan. Ms. Sullivan denied the request, noting that she believed there was too much potential for a conflict of interests

with Ms. Tucker's official DCS duties and referred Ms. Tucker to the State Ethics Commission for a final determination on the matter.

Ms. Tucker and DCS' current Ethics Officer, Rachel Russell, provided a summary of the request and answered the Commission's questions regarding Ms. Tucker's outside employment opportunity. The Commission expressed concerns regarding how Ms. Tucker would be screened from matters that would create a potential conflict of interests for her under the ethics rules. The Commission also wanted to know how much of Ms. Tucker's work for the outside employer would involve DCS clients and whether her salary, or any part of it, would be derived from contract funds received from DCS.

The Commission agreed to hold the decision and not issue a Formal Advisory Opinion until such time as the requestor produced a screening mechanism and information on the financial arrangements made between DCS and Journey, as well as information on how the outside employer handles DCS cases. Commissioner Keith moved to approve the Commission's findings and Commissioner Noel seconded the motion which passed (4-0).

VI. Request for Formal Advisory Opinion

2018-FAO-003 Gary Hoagland, Registered Nurse, Madison State Hospital Leslie Huckleberry, General Counsel Family & Social Services Administration

Gary Hoagland is a registered nurse and is employed by the Family and Social Services Administration (FSSA) as the Assistant Director of Nursing at Madison State Hospital. Mr. Hoagland is interested in applying for the position of a reserve police officer with the city of Hanover. He plans to continue working full-time for FSSA/Madison State Hospital while training and working as a reserve officer. He provides that he would not train or serve as a reserve officer while on state time. He further provides that he would not seek any political gain and he would not receive any compensation for performing his duties as a reserve officer for the city of Hanover.

Mr. Hoagland advises that there are times when he is serving as a reserve officer that he may be asked to provide back up to county or state police within the Clifty Falls State Park.

Mr. Hoagland asked the Commission whether, under the Code, it would be acceptable for him to (1) obtain employment as a reserve police officer for the Hanover Police Department while also employed at FSSA, and (2) enter a state park with a firearm while carrying out his duties as a reserve police officer.

The advisory opinion stated the following analysis:

The Commission can only interpret the rules in the Code of Ethics. Mr. Hoagland's question about his ability to carry a firearm onto state property, such as the Clifty Falls State Park, falls outside of the Code of Ethics and should be addressed by the State Personnel Department and the agencies who oversee that property.

A. *Outside employment*

An outside employment or professional activity opportunity creates a conflict of interests under IC 4-2-6-5.5(a) if it results in the employee: 1) receiving compensation of substantial value when 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 or her official position to secure unwarranted privileges or exemptions of substantial value that are not properly available to similarly situated individuals outside state government.

Mr. Hoagland would not be compensated by the city of Hanover for serving as a reserve police officer so the Commission does not need to make a determination on subsection (1) of this rule. In addition, Mr. Hoagland's service as a reserve police officer would not require him to disclose confidential information he gained through his state employment. Mr. Hoagland must ensure that he does not use his official position to secure unwarranted privileges.

Leslie Huckleberry, General Counsel for FSSA, attended the meeting on behalf of FSSA's Ethics Officer, Latosha Higgins, and advised the Commission that FSSA did not have any concerns about Mr. Hoagland's outside professional activity as a reserve officer.

Accordingly, the Commission finds that Mr. Hoagland's outside professional activity as a reserve police officer would not create a conflict of interests for him under this rule.

B. *Conflict of interests-decisions and votes*

IC 4-2-6-9 (a)(1) prohibits Mr. Hoagland 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 Mr. Hoagland from participating in any decision or vote, or matter relating to such a decision or vote, if he has knowledge that a business organization with whom he is negotiating employment with or serving as an officer, director, trustee, partner, member, or employee has a financial interest in the matter. Mr. Hoagland will not be a paid employee of the Hanover Police Department, but he will be serving as a member of the Hanover Police Department. Accordingly, this rule would be triggered if Mr. Hoagland participates in any matter related to a decision or vote that could financially impact the Hanover Police Department. Specifically, if the Department is considered a business organization with which he is serving as a member and it has a financial interest in any decisions or votes Mr. Hoagland would make or participate in as the Assistant Director of Nursing, he could have a potential conflict of interests under this rule.

The Commission finds that Mr. Hoagland's current responsibilities as the Assistant Director of Nursing would not require him to participate in decisions or votes, or matters relating to such decisions or votes, in which the Hanover Police Department would have a

financial interest. 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.

C. Confidential information

Mr. Hoagland 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 Mr. Hoagland from accepting any compensation from any employment, transaction, or investment which 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. In addition, the definition of “information of a confidential nature” is set forth in IC 4-2-6-1(a)(12).

To the extent Mr. Hoagland is exposed to or has access to such confidential information in his position with FSSA, he would be prohibited not only from divulging that information but from ever using it to benefit any person, including the Hanover Police Department, in any manner.

D. Use of state property and Ghost employment

IC 4-2-6-17 prohibits Mr. Hoagland 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. Likewise, 42 IAC 1-5-13 prohibits Mr. Hoagland 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 Mr. Hoagland observes these provisions while serving as a reserve police officer, such outside professional activity would not violate these ethics laws.

The Commission found that that Mr. Hoagland’s intended outside professional activity/service as a volunteer reserve police officer for the city of Hanover would not be contrary to the Code of Ethics.

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

VII. Director’s Report

Ethics Director, Jennifer Cooper, discussed the launch of the 2017 version of the biennial ethics training, which was administered to all members of the executive branch of state government. Ms. Cooper further stated that as of January 11, 2018, 76 agencies had received the training, and that a total of 29,317 people had completed the training, including 7 state officers, 76 appointing authorities, and 1,022 special state appointees. Ms. Cooper further stated that the Department of

Natural Resources completed the training more recently, which included 1,500 employees and 150 special state appointees, making the total over 30,000 executive branch individuals who had completed the ethics training.

Ms. Cooper then discussed how the Office of Inspector General was in the midst of the 2017 Financial Disclosure Statement filing season, which required all elected officers, appointing authorities, Department of Administration Division Directors, certain Public Retirement Systems employees, and state employees with final purchasing authority, to file their Financial Disclosure Statement for the Calendar Year 2017 by February 1, 2018. Ms. Cooper further stated that the Office of Inspector General would ultimately process over 2,000 Financial Disclosure Statements between January 11, 2018 and February 1, 2018. Lastly, the Ethics Director stated that she would provide the Commission with an update at the next Commission meeting, which was set to take place on Thursday, February 8, 2018, and then with a full report during the March, 2018 or April, 2018 Ethics Commission meeting, which would include the names of any individuals who failed to comply with the filing requirements.

VIII. Adjournment

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

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

Rachael Ehlich, Senior Counsel
Auto Dealer Services Division of the Indiana Secretary of State
302 W. Washington St. IGCS E-111
Indianapolis, IN 46204

12/29/17

Indiana Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

Re: Request for Formal Advisory Opinion (Gift Rule 42 IAC 1-5-1 and Outside Professional Activity IC 4-2-6-5.5)

Ladies and Gentlemen,

In my capacity as a state employee, on the informal advice of the Inspector General's office, I am herewith requesting a formal ethics advisory concerning my volunteer activities with the Junior League of Indianapolis (JLI). The JLI has grants and sponsorship committees which solicit donations and sponsorships from businesses to support the organization's civic and charitable missions. The JLI grants and sponsorship committees solicit donations and sponsorships from businesses. On occasion donations and sponsorships are solicited from businesses licensed and regulated by the state agency I'm employed by. I would like to know if my involvement with the JLI grants and sponsorship committees - subject to particular matter and particular business screening, would violate Indiana ethics rules for state employees.

Background

I've been employed by the state of Indiana as Senior Counsel for the Secretary of State Auto Dealer Services Division (SOS-ADSD) since August 2015. Pursuant to IC 9-32 et seq. the SOS-ADSD has licensing and regulatory authority over automobile dealers in the state of Indiana. In my job, as part of an agency team, I am involved with licensing activities and oversee certain enforcement activities involving specific auto dealers. My job also involves general agency administration, rule making and legislative matters – concerning the industry overall, and not any particular agency licensee (auto dealer).

Outside of my employment, I'm a member of the Junior League of Indianapolis ("JLI"). JLI is a nonprofit organization whose mission is "promoting voluntarism, developing the potential of women and improving the community through the effective action and leadership of trained volunteers."¹ I pay annual dues to be a part of this organization and do not receive compensation for my involvement. I've recently been appointed to serve in the organization as a member of the

¹ <https://www.jlindy.org/?nd=mission>

Grants Committee and as a chair-elect of the Sponsorship Committee. The Secretary of State's office and my supervisor are generally supportive of my volunteer work with JLI.

The JLI Sponsorship Committee is responsible for seeking new corporate and in-kind sponsors and maintaining existing relationships with sponsors. The Committee works closely with other JLI committees to develop a list of donations that the Committee will seek, and acts as a sponsorship clearinghouse to ensure that JLI does not contact a business multiple times. The Committee also: seeks to build mutually beneficial relationships with sponsors; answer sponsors' questions about JLI; maintains agreements and forms for non-profit organization audit purposes; and applies for grants from public and private foundations. Typically the Committee's leader drafts sponsorship agreements and presenting them to JLI's president for approval. JLI's president has final authority regarding sponsorship agreements.

At the November, 2017 JLI Sponsorship Committee meeting - which I did not attend, it was proposed that a local auto dealership be approached about a sponsorship (the proposal did name a specific dealer). When informed of this, I advised the current committee co-chairs that due to the nature of my employment, I was prohibited from seeking anything of value from a business I was involved with the licensing or regulation of (primarily 42 IAC 1-5-1).

The committee co-chairs are understanding of my ethical obligations as a state employee. I need to know if I can accept appointment to the JLI Sponsorship Committee subject to being screened from soliciting businesses licensed or regulated by my agency as well as being screened from any licensing or enforcement matters involving JLI sponsors. Apart from particular business or matter screening, since specific sponsorships generally benefit an organization, its members and mission, may I (even with screening) participate in the JLI Sponsorship Committee or the JLI at all, if a business licensed and regulated by the agency I work for is a sponsor?

When I consulted our office's ethics officer, Jerry Bonnet, he identified Formal Advisory Opinions 06-I-21 and 07-I-IDHS as being somewhat analogous to my situation and advised that a screening rubric between myself and the identified dealer (both for the state and JLI) be developed. I advised that I would seek out the OIG for additional thoughts before providing an answer to the Committee.

On December 14, 2017, I sought an informal advisory opinion from the Indiana Office of Inspector General ("OIG"). The OIG was able to speak definitively on the following ethics matters:

- **Outside Professional Activity.** My involvement in the committee is not a violation of IC 4-2-6-5.5 so long as I do not use my state position to secure unwarranted privileges/exemptions for myself, JLI, or any other person.
- **Conflicts of Interest.** There do not appear to be any issues related to IC 4-2-6-9 because, in this instance, car dealerships are not an applicable person under the statute and my state employment does not involve matters that could financially impact JLI. So with regarding to this particular ethics rule, screening is not required.
- **Confidential Information.** I may not use confidential information to benefit JLI.

- **State Property and Ghost Employment.** I may not use state property for activities related to JLI, and any activity related to JLI must be completed on non-state time.

Regarding the **Gift Rule**, the OIG advised that, based on the Commission's findings in Formal Advisory Opinion 13-I-24, my name should not appear on letters or websites (or any other forms of communication) that are intended to solicit sponsorships from car dealerships. The OIG pointed out that mine is a fact-sensitive question and that FAO 13-I-24 is not entirely on-point. As such, the OIG suggested that I seek a *formal advisory opinion* from the Ethics Commission if I wish to serve on the JLI Sponsorship Committee as a member or co-chair - and the Committee solicits a sponsorship from a car dealership, or anytime a car dealership participated as a JLI sponsor (see correspondence attached).

Issues

1. Subject to business and matter screening as an employee and as a committee member, would a violation of the Gift Rule (42 IAC 1-5-1) arise if I continued to serve as a member of the JLI or its Sponsorship Committee and the Committee solicits a sponsorship from a car dealership, or while a car dealership's sponsorship is active?
2. Can my involvement in the JLI and its Sponsorship Committee be appropriately restricted while the Committee solicits a sponsorship from a car dealership or while a car dealership's sponsorship is active so as to prevent a violation of IC 4-2-6-5.5 regarding outside professional activity? I.E. does my employment require complete removal from the committee required, or from JLI if an auto dealer is a JLI sponsor?

I am available at your convenience if the Commission or staff have questions or require additional information. I will appreciate a hearing on this matter at an upcoming Ethics Commission meeting, which I will attend.

Truly yours,



Rachael Ehlich, Senior Counsel
Indiana Secretary of State Auto Dealer Services Division
302 W. Washington St. IGCS E-111
Indianapolis, IN 46024
Office: 317-234-8058
Email: raehlich@SOS.IN.GOV

Enc.

CC: Brandon Clifton, Indiana Secretary of State Chief of Staff
Melissa Reynolds, Auto Dealer Licensing Director
Jennifer Cooper, Office of Inspector General, Ethics Director

Ehlich, Rachael C

From: Savage, Matthew (Matt)
Sent: Tuesday, December 19, 2017 11:27 AM
To: Ehlich, Rachael C
Subject: Ethics Informal Advisory Opinion; Ehlich; SOS; gifts

Rachael,

Thank you for contacting our office for ethics advice. I understand that you are Senior Counsel for the Office of Secretary of State's (SOS) Auto Dealer Services Division. You also volunteer with the Junior League of Indianapolis (JLI) and currently serve on its Sponsorship Committee (the Committee), which may solicit a corporate sponsorship from a car dealership. You write that you understand you cannot be involved in the direct solicitation of a car dealership, and you ask how the State Ethics Code may otherwise affect your ability to serve on the Committee. You also ask whether these circumstances will require you to be screened from your state duties. Thank you for being so attuned to the possible issues that could arise from JLI's solicitation of car dealerships.

As Senior Counsel, you assist your division director with policy and legislative matters, act as a subject matter expert for legal questions regarding licensing, are responsible for agency rulemaking, and supervise the Auto Dealer Services Division's enforcement attorney who is responsible for bringing punitive actions against auto dealers.

The Committee is responsible for seeking new corporate and in-kind sponsors and maintaining existing relationships with sponsors. The Committee works closely with other JLI committees to develop a list of donations that the Committee will seek, and the Committee acts as a sponsorship clearinghouse to ensure that JLI does not contact a business multiple times. You write that the Committee also builds mutually beneficial relationships with sponsors, answers sponsors' questions about JLI, maintains agreements and forms for audit files, and may apply for grants from public and private foundations. The Committee's leader drafts the sponsorship agreements and brings the contracts to JLI's president for signature. You note that JLI's president has final authority regarding sponsorship agreements.

At its last meeting, the Committee discussed that it wants to solicit a corporate sponsorship from a car dealership. You did not attend that meeting, but you advised the Committee via email that you cannot be involved in soliciting the sponsorship due to your state job. Because you are slated to be the Committee co-chair next year, the Committee asked if you would be able to participate in maintaining an existing relationship with a dealership that sponsors JLI. You note that the initial solicitation of the sponsorship would be done by the current co-chairs, and you believe that JLI would seek to renew the sponsorship in the future.

You write that the Office of SOS has a business relationship with car dealerships that JLI might solicit. The Auto Services Division licenses dealers who sell twelve or more cars per year and may take enforcement action against licensees. You write that your agency exercises some discretion when issuing licenses, such as determining suitability of dealership's location or deciding whether something in a background check would prevent a dealership from receiving a license.

These circumstances primarily involve the State Ethics Code's rule on gifts. I included all relevant rules and definitions at the end of this opinion for your reference.

1. Gifts, 42 IAC 1-5-1

This rule states, in part, that a state employee shall not knowingly solicit, accept, or receive any gift, favor, service, entertainment, food, drink, travel expenses, or registration fees from:

- 1) a person who has a business relationship with the employee's agency; or
- 2) a person who is seeking to influence an action by the employee in her official capacity.

"Business relationship" is defined in IC 4-2-6-1(a)(5) to include the dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing a license or permit requiring the exercise of an agency's judgment or discretion. The general prohibition on gifts is subject to the eight exceptions outlined in subsection (b) of 42 IAC 1-5-1 or its application in certain circumstances may be waived by the agency's appointing authority as provided for in subsections (c) and (d).

A sponsorship that JLI receives from a car dealership would be considered a gift/favor. As a result, you may not solicit a sponsorship from a dealership that has a business relationship with the Office of SOS by virtue of its license. In addition, the rule may further restrict your participation on the Committee if the Committee (through its members) solicits a sponsorship from a car dealership. The State Ethics Commission (Commission) addressed a similar matter in Formal Advisory Opinion (FAO) 13-I-24, wherein the Commission considered how the gift rule would restrict a state employee's involvement in fundraising activities of outside organizations. In that case, the Commission prohibited the state employee from using his name on fundraising letters and/or websites of those organizations for the purpose of soliciting donations from any person who had a business relationship with the state employee's agency. It appears that at a minimum you would need to ensure that your name does not appear on letters or websites (or any other forms of communication) that are intended to solicit sponsorships from car dealerships. This is a fact-sensitive question and FAO 13-I-24 is not entirely on-point with your circumstances, so we cannot be sure of whether the Commission would further restrict your involvement with the Committee. For example, the Commission could find that acting as a Committee co-chair constitutes your solicitation of a sponsorship even if you are not directly involved in the solicitation. In addition, it is unclear whether maintaining a relationship with an existing sponsor would be permissible when the Committee seeks to renew that sponsorship in the future.

If you would like to serve on the Committee (as either a member or co-chair) while the Committee solicits a sponsorship from a car dealership or while a car dealership's sponsorship is active, we suggest that you request a formal advisory opinion from the Commission to get a final and public determination on this question. The next Commission meeting for which you can request advice is January 11th, and all requests for a formal advisory opinion are due on January 1st. You can find instructions for submitting a request for a formal advisory opinion from the Commission on our website: <http://www.in.gov/ig/2334.htm>. Please let me know if you have any further questions about the formal advisory opinion process.

2. Outside Professional Activity, IC 4-2-6-5.5

This rule prohibits you from:

- (1) accepting other employment that would involve compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or would require the you to recuse yourself from matters so central or critical to the performance of your official duties that your ability to perform them would be materially impaired;
- (2) accepting other employment or engaging in professional activity that would require you to disclose confidential information that was gained in the course of state employment; or

- (3) using your official position to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals outside state government.

Subsection (1) does not apply because you write that you receive no compensation in exchange for serving on the Committee. Subsection (2) does not apply because the information you provided does not indicate that serving on the Committee would require you to disclose confidential information. So long as you comply with subsection (3) and do not use your state position to secure unwarranted privileges/exemptions for yourself, JLI, or any other person, serving on the Committee as a member or co-chair would not violate IC 4-2-6-5.5.

3. Conflict of Interests – Decisions and Votes, IC 4-2-6-9

This rule prohibits you from participating in any matter related to a decision/vote if you have knowledge that any of the following persons have a financial interest in the outcome of the matter: 1) yourself; 2) your immediate family member; 3) a business organization in which you serve as an officer, director, member, trustee, partner, or employee; or 4) a person or organization with whom you are negotiating or have an arrangement concerning prospective employment.

This rule does not prohibit your participation as a state employee in decision/votes that could financially impact car dealerships because car dealerships do not fit in any of these four categories of persons. As a result, even *if* you are involved with a car dealership's sponsorship of JLI, this rule would not require your recusal as a state employee from matters pertaining to the car dealership. Agencies may adopt policies that are more restrictive than the Code of Ethics, so we suggest that you speak with your agency's Ethics Officer, Jerry Bonnett, to determine whether the Office of SOS has additional concerns that might require your recusal from matters that pertain to a dealership that sponsors JLI.

Although the rule would apply to decisions/votes in which JLI has a financial interest (because you are a "member" of JLI), it does not appear that you would participate as a state employee in matters that could financially impact JLI.

4. Confidential Information, 42 IAC 1-5-10 and 42 IAC 1-5-11

You should also be aware of the ethics rules pertaining to confidential information found at 42 IAC 1-5-10 and 42 IAC 1-5-11. These rules prohibit you from benefitting from, permitting another person to benefit from, or divulging information of a confidential nature except as permitted by law. To the extent that you possess information of a confidential nature by virtue of your position at the Office of SOS that could be used to benefit any person, including JLI, you should ensure you comply with these rules.

5. State Property and Ghost Employment, IC 4-2-6-17 and 42 IAC 1-5-13

Finally, please also keep in mind IC 4-2-6-17, which is the use of state property rule, and 42 IAC 1-5-13, which is the ghost employment rule. The use of state property rule provides that a state employee may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than 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. The ghost employment rule provides that a state employee shall not 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. In this case, you may not use state property for activities related to JLI, and any activity related to JLI must be completed on non-state time, such as on weekends or after your state hours.

Thank you again for submitting your inquiry. Please let me know if you have any questions regarding this opinion. Please note that this response does not constitute an official advisory opinion. Only the Commission

may issue an official advisory opinion. This informal advisory opinion allows us to give you quick, written advice. The Commission will consider that an employee or former employee acted in good faith if it is determined that the individual committed a violation after receiving an informal advisory opinion, and the alleged violation was directly related to the advice rendered. Also, remember that the advice given is based on the facts as I understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to my attention.

Sincerely,

Matt Savage
Indiana Office of Inspector General

IC 4-2-6-1 Definitions

Sec. 1. (a) As used in this chapter, and unless the context clearly denotes otherwise:

(2) "Agency" means an authority, a board, a branch, a bureau, a commission, a committee, a council, a department, a division, an office, a service, or other instrumentality of the executive, including the administrative, department of state government. The term includes a body corporate and politic set up as an instrumentality of the state and a private, nonprofit, government related corporation. The term does not include any of the following:

- (A) The judicial department of state government.
- (B) The legislative department of state government.
- (C) A state educational institution.
- (D) A political subdivision.

(3) "Appointing authority" means the following:

- (A) Except as provided in clause (B), the chief administrative officer of an agency. The term does not include a state officer.
- (B) For purposes of section 16 of this chapter, "appointing authority" means:
 - (i) an elected officer;
 - (ii) the chief administrative officer of an agency; or
 - (iii) an individual or group of individuals who have the power by law or by lawfully delegated authority to make appointments.

(5) "Business relationship" includes the following:

- (A) Dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:
 - (i) a pecuniary interest in a contract or purchase with the agency; or
 - (ii) a license or permit requiring the exercise of judgment or discretion by the agency.
- (B) The relationship a lobbyist has with an agency.
- (C) The relationship an unregistered lobbyist has with an agency.

(7) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

(6) "Commission" refers to the state ethics commission created under section 2 of this chapter.

(9) "Employee" means an individual, other than a state officer, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services.

(10) "Employer" means any person from whom a state officer or employee or the officer's or employee's spouse received compensation.

(11) "Financial interest" means an interest:

- (A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person;

or

(B) involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of a state officer or employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. 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.

(12) "Information of a confidential nature" means information:

(A) obtained by reason of the position or office held; and

(B) which:

(i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);

(ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or

(iii) is not in a public record, but if it were, would be confidential.

(13) "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

42 IAC 1-5-1

Gifts; travel expenses; waivers

Sec. 1. (a) A state employee or special state appointee, or the spouse or unemancipated child of a state employee or special state appointee, shall not knowingly solicit, accept, or receive any:

(1) gift;

(2) favor;

(3) service;

(4) entertainment;

(5) food;

(6) drink;

(7) travel expenses; or

(8) registration fees;

from a person who has a business relationship with the employee's or special state appointee's agency or is seeking to influence an action by the employee or special state appointee in his or her official capacity.

(b) The following shall not be subject to this rule:

(1) Gifts, favors, services, entertainment, food, drink, travel expenses, or registration fees from public agencies or public institutions.

(2) Food or drink consumed at a public meeting to which at least twenty-five (25) individuals are invited. A meeting will be considered public if:

(A) the event is a reception or other gathering for public officials that is not arranged to solicit government procurement of goods or services;

(B) the employee is giving a speech or participating in a presentation in the employee's official capacity; or

(C) the meeting has a formal educational program that the employee is attending to assist him or her in performing official duties.

(3) Mementos or souvenirs of nominal value.

(4) Food or drink consumed by an employee during negotiations or other activities related to an Indiana economic development corporation economic development project.

(5) Gifts, favors, services, entertainment, food, or drinks from relatives, or a person with whom the employee or special state appointee has an ongoing social relationship, so long as:

(A) the gifts or other items of value are not deducted as a business expense; and

(B) the gift giver is not seeking to influence an action by an employee or special state appointee in that person's official capacity.

(6) Political contributions subject to IC 3-9-2 that are reported in accordance with applicable law.

(7) Nominal refreshments offered to a state employee or a special state appointee conducting official state business while the employee or special state appointee is at a workplace of a person who:

(A) has a business relationship; or

(B) seeks to influence official action;

with the employee's or special state appointee's agency.

(8) Discount and other promotional programs approved and made available to state employees and special state appointees through the state personnel department or the Indiana department of administration.

(c) An employee's or special state appointee's state officer or appointing authority may waive application of subsection (a) of this rule in individual cases when consistent with the public interest. The waiver shall:

(1) be in writing; and

(2) identify the following:

(A) The employee or special state appointee.

(B) The nature and value of the gift.

(C) The donor of the gift.

(D) Why acceptance of the gift is consistent with the public interest.

(d) Written waivers must be filed with the commission within thirty (30) days of receipt of the gift. The commission may review the written waivers. An appointing authority or state officer may designate authority to the agency's ethics officer to waive application of this rule on behalf of the appointing authority or state officer. The designation shall be in writing and filed with the commission.

(e) If a person wishes to reimburse the state for any part or all of the expenses incurred by the state for appearances of a state officer, employee, or special state appointee or their official representatives on behalf of the state, the person shall remit to the treasurer of state any such amounts. The treasurer of the state shall quietus the funds into the general fund.

42 IAC 1-5-5 Outside Employment

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-6-5.5; IC 4-2-7

Sec. 5. Outside employment restrictions are set forth in IC 4-2-6-5.5.

IC 4-2-6-5.5 Conflict of interest; advisory opinion by commission

Sec. 5.5. (a) A current state officer, employee, or special state appointee may not knowingly do any of the following:

(1) Accept other employment involving compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired.

(2) Accept employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of state employment.

(3) Use or attempt to use the individual's official position to secure unwarranted privileges or exemptions that are:

(A) of substantial value; and

(B) not properly available to similarly situated individuals outside state government.

(b) 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).

42 IAC 1-5-6 Conflicts of interest; decisions and voting

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-6-9; IC 4-2-7

Sec. 6. Decision and voting restrictions are set forth in IC 4-2-6-9.

IC 4-2-6-9 Conflict of economic interests; commission advisory opinions; disclosure statement; written determinations

Sec. 9. (a) A state officer, an employee, or a special state appointee may not participate in any decision or vote, or matter relating to that decision or vote, if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter:

- (1) The state officer, employee, or special state appointee.
- (2) A member of the immediate family of the state officer, employee, or special state appointee.
- (3) A business organization in which the state officer, employee, or special state appointee is serving as an officer, a director, a member, a trustee, a partner, or an employee.
- (4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment.

(b) A state officer, an employee, or a special state appointee who identifies a potential conflict of interest shall notify the person's appointing authority and ethics officer in writing and do either of the following:

- (1) Seek an advisory opinion from the commission by filing a written description detailing the nature and circumstances of the particular matter and making full disclosure of any related financial interest in the matter. The commission shall:
 - (A) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter; or
 - (B) make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services that the state expects from the state officer, employee, or special state appointee.
- (2) File a written disclosure statement with the commission that:
 - (A) details the conflict of interest;
 - (B) describes and affirms the implementation of a screen established by the ethics officer;
 - (C) is signed by both:
 - (i) the state officer, employee, or special state appointee who identifies the potential conflict of interest; and
 - (ii) the agency ethics officer;
 - (D) includes a copy of the disclosure provided to the appointing authority; and
 - (E) is filed not later than seven (7) days after the conduct that gives rise to the conflict.

A written disclosure filed under this subdivision shall be posted on the inspector general's Internet web site.

(c) A written determination under subsection (b)(1)(B) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter. A written determination under subsection (b)(1)(B) shall be filed with the appointing authority.

42 IAC 1-5-10 Benefiting from confidential information

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 10. A state officer, employee, or special state appointee shall not benefit from, or permit any other person to benefit from, information of a confidential nature except as permitted or required by law.

42 IAC 1-5-11 Divulging confidential information

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 11. A state officer, employee, or special state appointee shall not divulge information of a confidential nature except as permitted by law.

IC 4-2-6-17 Use of state property for other than official business; exceptions; Violations

Sec. 17. (a) Subject to IC 4-2-7-5, a state officer, an employee, or a special state appointee may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than 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. The commission may withhold approval of a policy or rule that violates the intent of Indiana law or the code of ethics, even if Indiana law or the code of ethics does not explicitly prohibit that policy or rule.

(b) An individual who violates this section is subject to action under section 12 of this chapter.

42 IAC 1-5-13 Ghost employment

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 13. A state officer, employee, or special state appointee shall not engage in, or direct 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.

From: Ehlich, Rachael C
Sent: Monday, December 18, 2017 11:52 AM
To: Savage, Matthew (Matt) <MSavage@ig.IN.gov>
Subject: RE: 2017-IN-0722/Ethics IAO Ehlich

I do not receive any compensation for serving on the committee. I pay dues to be a part of Junior League, so it's the exact opposite ☺

Rachael C. Ehlich
Senior Counsel - Auto Dealer Services Division
Indiana Secretary of State Connie Lawson
302 W. Washington St. Room E-111
Indianapolis, IN 46204
317.234.8058
raehlich@sos.in.gov

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Follow us on Twitter: @SecretaryLawson

From: Savage, Matthew (Matt)
Sent: Monday, December 18, 2017 11:51 AM

To: Ehlich, Rachael C <RaEhlich@sos.IN.gov>
Subject: RE: 2017-IN-0722/Ethics IAO Ehlich

Thanks, Rachael. I do have one more question that I neglected to include. Could you confirm whether you receive any form of compensation in exchange for serving as a sponsorship committee member or co-leader? I think I know the answer to that, but I don't want to make any assumptions.

matt

From: Ehlich, Rachael C
Sent: Monday, December 18, 2017 8:56 AM
To: Savage, Matthew (Matt) <MSavage@ig.IN.gov>
Subject: RE: 2017-IN-0722/Ethics IAO Ehlich

Hi Matt,

My answers are below in black and bold. Please let me know if I can help clarify anything else!

- 1) Could you confirm whether the Office of the SOS has a business relationship with car dealerships that the Junior League's Sponsorship Committee might solicit?
 - a. Does the Office of the SOS issue licenses to those dealerships? **Yes, we issue licenses to dealers. A person is required to have a license (renews annually) if they sell 12 or more cars a year. We also take enforcement action against our licensees when the need arises (fines, license revocation, etc.)**
 - b. Do those licenses require the discretion of the Office of the SOS? **There are some portions of the license application where we exercise discretion, yes. Many requirements are straightforward (bond, insurance, Retail Merchant Certificate, etc.), but we do have some discretion when it comes to suitability of their business location and whether something on their background check should prevent them from having a license. There is some statutory and regulatory guidance here, but they both allow our office some discretion.**
- 2) Do your jobs responsibilities include matters that could affect a dealership that might sponsor the Junior League? **Yes.**
 - a. If so, could you explain more about your involvement in these matters, how you interact with dealerships (or their legal counsel), and describe your ability as a state employee to impact dealerships. **I supervise the Division's enforcement attorney, who is responsible for bringing punitive action against dealers. I help our Director write legislation and rules. I advise the Division's licensing department on licensing questions. From a dealer's perspective, I think they would be most interested in/concerned about the potential for influence when it comes to potential enforcement action. Or possibly special treatment in getting a license pushed through faster than usual or with more discretion than usual.**
- 3) What are the responsibilities of the Junior League's Sponsorship Committee? Is the Committee involved in matters other than soliciting sponsorships and maintaining relationships with sponsors? **The committee's description is as follows: Responsible for seeking new and maintaining existing corporate & in-kind sponsors. Works closely with Holiday Mart Committee and other JLI committees to develop a list of donations that Sponsorship Committee will seek. Acts as sponsorship clearinghouse to ensure businesses are not contacted multiple times by the JLI. Builds and negotiates mutually beneficial relationships with sponsors and ensures recognition & thank you's are delivered. Answers sponsors' questions about the JLI. May research and apply for grants from public and private foundations. Uses JLI software for records, as well as maintains agreements and forms for audit files.**
 - a. In regard to soliciting sponsorships, is the role of a committee leader different than the role of an ordinary member? **A committee leader's responsibilities include drafting the sponsorship agreements and bringing the contracts to the Junior League President for signature. The Junior League President does have the final say in any sponsorship agreements, which acts as a check on the sponsorship committee and its leaders.**

- 4) If a dealership sponsors the Junior League, would the Junior League seek to renew that dealership's sponsorship in the future? **I imagine so, yes.**

Rachael C. Ehlich

Senior Counsel - Auto Dealer Services Division
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raehlich@sos.in.gov

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From: Savage, Matthew (Matt)
Sent: Friday, December 15, 2017 11:49 AM
To: Ehlich, Rachael C <RaEhlich@sos.IN.gov>
Subject: RE: 2017-IN-0722/Ethics IAO Ehlich

Rachael,

Thank you for contacting us with your question. I am working on an informal advisory opinion for you, but I have a few follow up questions.

- 1) Could you confirm whether the Office of the SOS has a business relationship with car dealerships that the Junior League's Sponsorship Committee might solicit?
 - a. Does the Office of the SOS issue licenses to those dealerships?
 - b. Do those licenses require the discretion of the Office of the SOS?
- 2) Do your jobs responsibilities include matters that could affect a dealership that might sponsor the Junior League?
 - a. If so, could you explain more about your involvement in these matters, how you interact with dealerships (or their legal counsel), and describe your ability as a state employee to impact dealerships.
- 3) What are the responsibilities of the Junior League's Sponsorship Committee? Is the Committee involved in matters other than soliciting sponsorships and maintaining relationships with sponsors?
 - a. In regard to soliciting sponsorships, is the role of a committee leader different than the role of an ordinary member?
- 4) If a dealership sponsors the Junior League, would the Junior League seek to renew that dealership's sponsorship in the future?

Thank you,

Matt Savage
Staff Attorney, Indiana Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46220

MSavage@ig.IN.gov
(317) 234-3993

From: noreply@formstack.com [mailto:noreply@formstack.com]
Sent: Thursday, December 14, 2017 2:42 PM
To: IG Info <info@ig.IN.gov>
Subject: Advice

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****



Formstack Submission For: ig_2334

Submitted at 12/14/17 2:42 PM

Name: Rachael Ehlich

Email: raehlich@sos.in.gov

Phone: (317) 234-8058

State Agency: Secretary of State

Description of Your State Occupation: Senior Counsel for the Auto Dealer Services Division. Duties include supervising/managing the Division's enforcement attorney. Assist Division Director with policy and legislative matters. Subject matter expert for legal questions regarding licensing. Responsible for agency rulemaking.

What is your ethics question?: Outside of my job I am involved in the Junior League of Indianapolis. I currently serve on their Sponsorship Committee. At the last committee meeting (that I was unable to attend), they discussed wanting to solicit a corporate sponsorship from a car dealership. I advised via email that due to my role with the state I cannot be involved in soliciting a sponsorship. The committee then asked if I would be able to be a part of "maintaining an existing relationship" as I am slated to be a committee co-chair next year. The initial solicitation of the sponsorship will be by the current committee co-chairs. I do not intent to be a part of the committee after my term ends in mid-2019.

It is clear to me that I cannot be involved in any sort of direct solicitation. My question is: Is it a conflict for me to just be on the committee even if I'm not involved in the solicitation of a sponsorship? Is it a conflict for me to be a committee leader even if the other co-chair is 100% responsible for soliciting a sponsorship? After an agreement has been reached/signed, would it be a conflict for me to take any part in maintenance of that relationship? I would of course

avoid being a part of any “asks” the committee would make – thinking more along the lines of if questions/issues from the dealer arise during the course of the sponsorship. Is there any conflict in just being a member of the league if the league intends to solicit a sponsorship?

Based on discussion with our general counsel and review of previous IEC decisions, my instinct is that I would need to be screened off from discussions regarding this dealer (I do not know who they plan to solicit) both at the committee meetings and at work. Or if I am screened off of committee work, will I need to be screened off for my work with the state?

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Formstack, 8604 Allisonville Road, Suite 300, Indianapolis, IN 46250

Croft, Celeste

From: Ehlich, Rachael C
Sent: Friday, December 29, 2017 1:26 PM
To: IG Info
Cc: Reynolds, Melissa D (SOS); Clifton, Brandon; Bonnet, Jerry (SOS)
Subject: Request for Formal Advisory Opinion
Attachments: doc01712220171229132217.pdf

Attached please find my request for a formal advisory opinion. Included with my request is my correspondence with and informal opinion on the same matter from the Indiana Office of the Inspector General.

Thank you for your time and attention to this matter.

Best,

Rachael C. Ehlich
Senior Counsel - Auto Dealer Services Division
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raehlich@sos.in.gov

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STATE OF INDIANA



ERIC HOLCOMB Governor

INDIANA VETERANS' HOME

3851 N. River Road
West Lafayette, IN 47906
Telephone: (765) 463-1502

December 29, 2017

Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202
Via Email: info@ig.in.gov

Re: Request for Formal Advisory Opinion

Dear Chairman and members of the Ethics Commission:

The Indiana Veterans' Home ("IVH") is requesting a Formal Advisory Opinion regarding potential gifts made by individuals and groups to use for employee appreciation activities.

On December 4, 2017, IVH's Chief Financial Officer, Douglas Crider, submitted a request for an informal advisory opinion from the Office of the Inspector General regarding this matter.¹ In addition to providing a thoughtful response, we were encouraged to seek a formal advisory opinion. Fundamentally I want to ensure that if IVH accepts donations to IVH's "Employee Appreciation" fund, we do not violate the Code of Ethics. I have broken our inquiry into subparts below.

Background

IVH frequently receives donations from individuals and veteran service organizations.² Many of these donations are monetary donations and can vary in the amounts. In its enabling statute, the legislature granted IVH the authority to accept gifts of real and personal property to "expend as the donor directs." Ind. Code § 10-17-9-2. Most of the time these donors wish to contribute directly to IVH for items that they believe the State should fund, such as infrastructure and maintenance work or items IVH provides for routine care. Other times these donors specify their funds be used to memorialize a loved one. And, as relevant to this inquiry, the donors want to make donations for "Employee Appreciation."

¹ The informal advisory opinion is attached to this request.

² This term includes organizations such as the American Legion, Veterans of Foreign Wars, Forty and Eight, National Veterans Awareness Association, American Legion Women's Auxiliary, among other various veteran service organizations who actively support IVH.

1. Are gifts made to an agency in general prohibited by the gifts rule?

Donors—whether individuals or veteran service organizations—have wanted to donate funds to IVH to be used to show appreciation to IVH employees and improve morale. For example, donors have requested that donated funds be used for an all-staff employee cookout or dinner, or to provide snacks and coffee for quarterly all-staff meetings. The dollar amounts the donors wish to donate can. IVH has had requests from donors who have raised as much as \$500.00. In any situation, the dollars would not go to any specific employee but would benefit all employees.

In the response to Mr. Crider’s inquiry, Ms. Tyffany Mulligan of the Office of the Inspector General stated that the gifts rule “is not clear about whether it prohibits certain gifts to an agency in general or whether the restriction applies only to gifts to individual state employees.”³ Ms. Mulligan then noted that the Commission has addressed this question in previous formal advisory opinion, and determined that gifts to an agency as a whole were not prohibited by the gift rule.⁴ Based on Ms. Mulligan’s recommendation, IVH would like the Commission’s final determination on whether donations made to IVH’s employee appreciation fund, that would be for general appreciation of all employees would not be subject to the gift rule.

2. If such donations are subject to the gift rule, could IVH still accept the donation if the donor has no business relationship with IVH and IVH does not believe the donor seeks to influence the decision making and policy of IVH?

If such donations are subject to the gift rule, I believe that IVH would still be able to accept them as the donors do not have any business relationship with IVH and IVH does not believe that the donors are seeking to influence the decision making and policy of IVH. These donors are not seeking, obtaining, establishing, maintaining, or implementing a pecuniary interest in a contract or purchase with IVH. Donors providing funds for IVH employee appreciation do so in order to show support for hard-working employees and improve staff morale. IVH would like the Commission to make a final determination on this point.

3. Would “Employee Appreciation” events be considered official state business?

If IVH accepted donations for “Employee Appreciation” events, would having such events violate the Code of Ethics? IC 4-2-6-17 prohibits a state officer, employee or special state appointee from using state materials, funds, property, personnel, facilities or equipment for purposes other than 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.

Donors wanting to donate funds for the “Employee Appreciation” fund have requested that IVH use those funds to pay for a cookout or dinner, or provide snacks at employee appreciation meetings. . Even if the funds used to purchase the food for such events is not state money, the food will be cooked and prepared on state-owned equipment and prepared by state employees. These types of

³ See the Informal Advisory Opinion authored by Ms. Tiffany Mulligan and sent to Mr. Crider on Tuesday, December 5, 2017, which is attached. This cited language can be found on page 2.

⁴ Formal Advisory Opinions 13-I-6 and 13-I-8.

events would take place on IVH grounds during business hours. It seems that such events would violate the Code of Ethics unless they were considered official state business.

Employee appreciation events certainly are important tools for employee engagement and retention. Making state employment a competitive and dynamic workplace is a top priority for the Governor. In his Executive Order creating parental leave for state employees, Governor Holcomb noted that the “policy will assist in retaining a talented workforce by lowering employee turnover and increasing morale and engagement, and will work to foster a diverse, highly skilled, and professional workforce.”⁵ Particularly in the healthcare field, where high turnover is rampant, it is so important for IVH to find opportunities to show employee appreciation and help improve morale.

There is precedent to support a finding that using state resources in this manner would not violate the Code of Ethics if the agency can show that there is a benefit to the agency. In Formal Advisory Opinion 17-I-6, the Indiana Department of Transportation (“INDOT”) requested an opinion from the Commission regarding whether paying professional membership fees for their attorneys would violate the Code of Ethics. Previously the Commission had ruled that agency funds could not be used to pay for these membership fees as attorneys could do their jobs without being members of professional organizations. However, the Commission received additional information from INDOT and other agencies. They determined the following:

Based on the information provided through this request, the Commission finds that professional memberships provide many benefits for state agencies, beyond those afforded to the employees who join the professional associations, including reduced continuing education fees, professional development of employees, retention of highly skilled professionals, and access to information that is valuable, and in some cases necessary, for state employees in carrying out their state responsibilities.

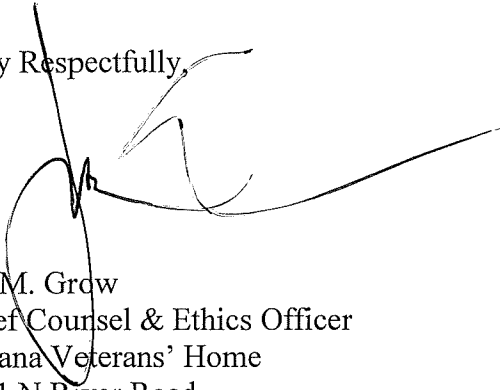
The Commission concluded “that an agency’s use of state funds to pay for professional association membership fees constitutes official state business and would not violate IC 4-2-6-17 as long as there is a demonstrated benefit to the agency.” This conclusion was based on the existence of some of the same benefits that employee appreciation events provide, such as retention of skilled employees. Employee appreciation events provide several other benefits not mentioned in the opinion, such as reduced turnover and increased employee job satisfaction. Decreasing turnover would be a major cost savings to the State, as the average cost of turnover from a nurse ranges from **\$37,700** to **\$58,400**.⁶ I respectfully request the Commission opine on whether employee appreciation events can be considered official state business and thus not a violation of the Code of Ethics.

⁵ Executive Order 17-31.

⁶ Statistic from the 2016 National Healthcare Retention & RN Staffing Report, published in “The Cost of Losing Nurses.” November 30, 2016. Accessed online at <https://rnbsnonline.unm.edu/articles/high-cost-of-nurse-turnover.aspx>.

Thank you for your time and consideration in this matter. I look forward to your determination in this matter as I wish to ensure that IVH is conducting business in a manner consistent with Indiana's ethics laws. If you have any questions or need clarification, please do not hesitate to contact me.

Very Respectfully,

A handwritten signature in black ink, appearing to read 'Joy M. Grow', with a long horizontal flourish extending to the right.

Joy M. Grow
Chief Counsel & Ethics Officer
Indiana Veterans' Home
3851 N River Road
West Lafayette, Indiana 47906
JGrow1@IVH.in.gov
765.497.8606

Grow, Joy

From: Mulligan, Tiffany M
Sent: Tuesday, December 05, 2017 12:05 PM
To: Crider, Doug
Cc: Grow, Joy
Subject: RE: Ethics Informal Advisory Opinion; Crider; IVH; gifts

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you, Douglas. If you have any questions regarding the process for submitting a request, please let us know.

Tiffany

Tiffany Mulligan
Chief Legal Counsel
Office of Inspector General/State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, IN 46202
tmulligan@ig.in.gov
Phone: (317) 232-0708
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From: Crider, Doug
Sent: Tuesday, December 05, 2017 12:02 PM
To: Mulligan, Tiffany M <TMulligan@ig.IN.gov>
Cc: Grow, Joy <JGrow1@ivh.IN.gov>
Subject: RE: Ethics Informal Advisory Opinion; Crider; IVH; gifts

Ms. Mulligan, thank you for the opinion, I will put together a formal request for the State Ethics Commission and will submit it in time for the January 2018 meeting.

Douglas W. Crider
Chief Financial Officer, Business Office, Direct Dial (765) 497-8574
Indiana Veterans Home, 3851 North River Road, West Lafayette, IN 47906
(765) 463-1502, Fax (765) 497-8001 [Visit us on Facebook!](#)



From: Mulligan, Tiffany M
Sent: Tuesday, December 05, 2017 11:30 AM
To: Crider, Doug <DCrider@ivh.IN.gov>
Subject: Ethics Informal Advisory Opinion; Crider; IVH; gifts

Douglas,

Thank you for contacting our office with your question about potential gifts to the Indiana Veterans' Home (IVH) for general employee appreciation. I understand you serve as the Chief Financial Officer for IVH and are responsible for accounting and financial recording and reporting for the agency.

You contacted our office because IVH has instances where groups or individuals wish to donate funds to be used for employee appreciation activities. These donors want the donation to be used on such items as cookies, hot chocolate or coffee, or snacks at an all-employee meeting. These donors do not specify a particular employee, but instead want the money to go towards general appreciation of all employees. You explain that the dollar amount for these donations can range from \$10 and up, and you have had some requests from organizations who have fundraised as much as \$500.

You explain that IVH accepts donations from various groups for a variety of specific purposes. For example, families of a veteran who stayed at the IVH may donate flowers, memorial bricks, televisions or other items to IVH. You explain that IVH has a formal QuickBooks accounting system that provides the recordkeeping for these specific purpose donations and provides the proper internal controls. IVH records the various specific purpose donations in separate accounts for each specific purpose. Thus far IVH has not had a specific "employee appreciation account." You ask whether it is permissible to have a specific donation account for use for "employee appreciation," assuming that IVH properly controls the account internally in the same way IVH controls all other types of donations received and assuming IVH has the authority to accept donations in according with the State Accounting Manual Chapter 4. You specifically ask whether this would violate the Code of Ethics or violate any statutes or state policies.

First, I note that our office only provides advice on the Code of Ethics. We do not provide advice on the State Accounting Manual or other policies or rules that may apply. It appears you have already considered other policies that may apply; however, we encourage you to contact the State Budget Agency if you have additional questions, such as on how to account for these donations.

Your question primarily implicates the Code of Ethics rule on gifts, which is found in 42 IAC 1-5-1. This rule prohibits a state employee from knowingly soliciting, accepting, or receiving any gift, favor, service, entertainment, food, drink, travel expenses, or registration fees from:

- 1) a person who has a business relationship with the employee's agency; or
- 2) a person who is seeking to influence an action by the employee in his or her official capacity.

"Business relationship" is defined in IC 4-2-6-1(a)(5) to include the dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing a pecuniary interest in a contract or purchase with the agency. The general prohibition on gifts is subject to the eight exceptions outlined in subsection (b) of 42 IAC 1-5-1 or its application in certain circumstances may be waived by the agency's appointing authority as provided for in subsections (c) and (d).

You indicate that the gifts would not be to a particular employee; instead the gifts would be for general appreciation of all employees. Therefore, gifts to the employee appreciation fund would be considered a gift to IVH rather than to individual state employees. The text of the gift rule is not clear about whether it prohibits certain gifts to an agency in general or whether the restriction applies only to gifts to individual state

employees. The State Ethics Commission (Commission) previously addressed this issue in formal advisory opinions 13-I-6 and 13-I-8. In these opinions, the Commission found that gifts to an agency as a whole were not prohibited by the gift rule. We cannot be certain of how the Commission would decide in the present circumstances, but based on precedent it appears that gifts to an employee appreciation fund would not be subject to the gift rule.

We encourage you to seek a formal advisory opinion from the State Ethics Commission to get a public and final determination on this matter. Only the Commission can provide a formal advisory opinion. The next Commission meeting for which you can request advice is January 11th, and all requests for a formal advisory opinion are due on January 1st. You can find more information on this process at the following link: <http://www.in.gov/ig/2334.htm>. Formal advisory opinions provide the ultimate ethics advice. If you follow the advice given in a formal advisory opinion, it is considered conclusive proof that you acted in accordance with the Code. I would be happy to answer any questions you have about the formal advisory opinion process.

I note that if the Commission were to find that donations to an employee appreciation fund are subject to the gift rule, then IVH could accept the donation if the donor has no business relationship with IVH and IVH does not believe the donor seeks to influence the decision making and policy of IVH.

Thank you again for submitting your question to our office. Please note that this response does not constitute an official advisory opinion. Only the Ethics Commission may issue an official advisory opinion. This informal advisory opinion allows us to give you quick, written advice. The Commission will consider that an employee or former employee acted in good faith if it is determined that the individual committed a violation after receiving advice and the alleged violation was directly related to the advice rendered. Also, remember that the advice given is based on the facts as I understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to my attention.

Sincerely,

Tiffany Mulligan

IC 4-2-6-1

Definitions

Sec. 1. (a) As used in this chapter, and unless the context clearly denotes otherwise:

(2) "Agency" means an authority, a board, a branch, a bureau, a commission, a committee, a council, a department, a division, an office, a service, or other instrumentality of the executive, including the administrative, department of state government. The term includes a body corporate and politic set up as an instrumentality of the state and a private, nonprofit, government related corporation. The term does not include any of the following:

- (A) The judicial department of state government.
- (B) The legislative department of state government.
- (C) A state educational institution.
- (D) A political subdivision.

(3) "Appointing authority" means the following:

- (A) Except as provided in clause (B), the chief administrative officer of an agency. The term does not include a state officer.
- (B) For purposes of section 16 of this chapter, "appointing authority" means:
 - (i) an elected officer;

- (ii) the chief administrative officer of an agency; or
- (iii) an individual or group of individuals who have the power by law or by lawfully delegated authority to make appointments.

(5) "Business relationship" includes the following:

- (A) Dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:
 - (i) a pecuniary interest in a contract or purchase with the agency; or
 - (ii) a license or permit requiring the exercise of judgment or discretion by the agency.
- (B) The relationship a lobbyist has with an agency.
- (C) The relationship an unregistered lobbyist has with an agency.

(6) "Commission" refers to the state ethics commission created under section 2 of this chapter.

(9) "Employee" means an individual, other than a state officer, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services.

42 IAC 1-5-1

Gifts; travel expenses; waivers

Sec. 1. (a) A state employee or special state appointee, or the spouse or unemancipated child of a state employee or special state appointee, shall not knowingly solicit, accept, or receive any:

- (1) gift;
- (2) favor;
- (3) service;
- (4) entertainment;
- (5) food;
- (6) drink;
- (7) travel expenses; or
- (8) registration fees;

from a person who has a business relationship with the employee's or special state appointee's agency or is seeking to influence an action by the employee or special state appointee in his or her official capacity.

(b) The following shall not be subject to this rule:

- (1) Gifts, favors, services, entertainment, food, drink, travel expenses, or registration fees from public agencies or public institutions.
- (2) Food or drink consumed at a public meeting to which at least twenty-five (25) individuals are invited. A meeting will be considered public if:
 - (A) the event is a reception or other gathering for public officials that is not arranged to solicit government procurement of goods or services;
 - (B) the employee is giving a speech or participating in a presentation in the employee's official capacity; or
 - (C) the meeting has a formal educational program that the employee is attending to assist him or her in performing official duties.
- (3) Mementos or souvenirs of nominal value.
- (4) Food or drink consumed by an employee during negotiations or other activities related to an Indiana economic development corporation economic development project.
- (5) Gifts, favors, services, entertainment, food, or drinks from relatives, or a person with whom the employee or special state appointee has an ongoing social relationship, so long as:
 - (A) the gifts or other items of value are not deducted as a business expense; and
 - (B) the gift giver is not seeking to influence an action by an employee or special state appointee in that person's official capacity.
- (6) Political contributions subject to IC 3-9-2 that are reported in accordance with applicable law.

(7) Nominal refreshments offered to a state employee or a special state appointee conducting official state business while the employee or special state appointee is at a workplace of a person who:

- (A) has a business relationship; or
- (B) seeks to influence official action;

with the employee's or special state appointee's agency.

(8) Discount and other promotional programs approved and made available to state employees and special state appointees through the state personnel department or the Indiana department of administration.

(c) An employee's or special state appointee's state officer or appointing authority may waive application of subsection (a) of this rule in individual cases when consistent with the public interest. The waiver shall:

(1) be in writing; and

(2) identify the following:

- (A) The employee or special state appointee.
- (B) The nature and value of the gift.
- (C) The donor of the gift.
- (D) Why acceptance of the gift is consistent with the public interest.

(d) Written waivers must be filed with the commission within thirty (30) days of receipt of the gift. The commission may review the written waivers. An appointing authority or state officer may designate authority to the agency's ethics officer to waive application of this rule on behalf of the appointing authority or state officer. The designation shall be in writing and filed with the commission.

(e) If a person wishes to reimburse the state for any part or all of the expenses incurred by the state for appearances of a state officer, employee, or special state appointee or their official representatives on behalf of the state, the person shall remit to the treasurer of state any such amounts. The treasurer of the state shall quietus the funds into the general fund.

Tiffany Mulligan
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From: noreply@formstack.com [<mailto:noreply@formstack.com>]

Sent: Monday, December 04, 2017 10:52 AM

To: IG Info <info@ig.IN.gov>; ccarrasco@ig.in.gov; Cooper, Jennifer <JCooper@ig.IN.gov>

Subject: Advice

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Formstack Submission For: ig_2334

Submitted at 12/04/17 10:51 AM

Name: Douglas Crider

Email: Dcrider@ivh.in.gov

Phone: (765) 497-8574

State Agency: Indiana Veterans' Home

Description of Your State Occupation: Chief Financial Officer; responsible for accounting and financial recording and reporting for the agency.

What is your ethics question?:

Indiana Veterans' Home has instances where groups or individuals wish to donate funds but want those contributions to be used for employees' appreciation activities. For example, we have veteran organizations that want to provide donations not only of goods or services, but also monies (via check) from a fundraising event they have conducted, or from families (siblings, children, relatives) of a Veteran who resided here and has passed away, but they don't want the contribution to be used for items that they believe the State should fund as part of a State budget, such as they do not want the funds to be used for infrastructure improvements, nor for maintenance work per se, nor for general asset acquisition, and they don't want to contribute to the State of Indiana, but they want to contribute directly to the Indiana Veterans' Home. These donations are specific purpose donations, e.g. for Flowers, Memorial Bricks, Bowling, Recreation, Cemetery/headstone wreaths, Televisions, etc., and, pertaining to my question, "Employee Appreciation". The donors do not specify a particular employee, it is for all employees' general appreciation, and they want the donation to be spent on things such as a cookies, or hot chocolate and coffee, or for a hot dog cookout, or snacks, etc., at an employee function such as our quarterly all-employee meeting; the dollar amount varies, and can range from \$10 up, as we have had requests from organizations who have fund-raised as much as \$500. We have a formal Quickbooks accounting system that provides the recordkeeping and with the proper internal controls, and is audited, for use with

the various specific purpose donations which are recorded in separate accounts for each specific purpose, but heretofore has not included any specific "employee appreciation" account. Hence my question: is it permissible to have a specific donation account for use for "employee appreciation"; assuming that it is properly controlled internally the same way that we control all of the other types of donations received, and our Agency has statutory authority to accept donations in accordance with the State Accounting Manual Chapter 4, is it improper or does it conflict with the Ethics code or violate any statutes or State Policies? Thank you for any guidance you can provide. Douglas Crider, CFO, Indiana Veterans' Home

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Formstack, 8604 Allisonville Road, Suite 300, Indianapolis, IN 46250

1/26/2018

From: Jeremy Hawk

CFO | IN School for the Deaf | 1200 E 42nd Street | Indianapolis | IN | 46205

To: Indiana Ethics Commission

Office of Inspector General | 315 West Ohio Street | Indianapolis | IN | 46202

Dear Indiana Ethics Commission Members,

I am writing to request a Formal Advisory Opinion as to whether, as a state employee, I am prohibited from seeking election to and holding office as a County Council Member in my home County of Hamilton, Indiana.

I am currently the Budget Director/Chief Financial Officer at the Indiana School for the Deaf (ISD). My duties are to create and manage the budgets as well as supervise the day to day finances of this state agency. I do not have final purchasing authority for this agency, but am involved in strategic sourcing activities and decisions for purchases made on behalf of state. Additionally, I do not sign agency contracts, but am involved in their negotiation, preparation, and execution, and I directly supervise the employee who creates the documents. Final purchasing authority and contract signatures/decisions are held by my supervisor, and agency head, David Geeslin, as well as with the State Budget Agency (SBA). SBA's Central Accounting Division is the Procurement Agent for ISD and is responsible for verifying compliance with state purchasing guidelines for all ISD purchases and contracts. Additionally, SBA has statutory oversight and signatory authority for all agency requisitions for purchase orders and contracts.

The position of County Council Member is paid roughly \$30,000 per year. The Council meets monthly for formal meetings after normal business hours, which would be on my own personal time, outside of state employment. This is an elected position, which means that a campaign will need to be run and money collected and expensed for election purposes.

The Council is the financial power of the county, serving as a check on the Board of County Commissioners. The Council duties are to:

- Adopt annual budgets
- Fix salaries
- Fix the county tax rate

- Furnish financial assistance to any community center for the mentally handicapped located in the county
- Incur county indebtedness
- Levy taxes to provide funds for constructing,
- Make appropriations, re-appropriates and transfers of funds
- Repair and remodel jails

I am aware of the prohibitions against engaging in political activity, outside employment that would create a conflict with state duties, ghost employment, the use of state property for purposes other than official state business, benefitting from or divulging confidential information, and the application of the federal Hatch Act. I have also spoken with my agency's Ethics Officer who has researched these regulations and is in agreement that as long as precautions are taken and the two roles are kept separate, there should be no conflict.

I request your review of this situation and ruling as to whether I can hold my current state position and run for the County Council position in Hamilton County.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeremy Hawk', with a large, sweeping flourish at the end.

Jeremy Hawk

CFO, Indiana School for the Deaf

Croft, Celeste

From: Jeremy Hawk <JHawk@isd.k12.in.us>
Sent: Friday, January 26, 2018 2:50 PM
To: IG Info
Subject: Formal Advisory Opinion Request
Attachments: AO Request - IEC.pdf

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Please see the attached, signed Formal Advisory Request regarding state employment and running for/holding elected office.

Thank you!

Jeremy Hawk
Chief Financial Officer
Indiana School for the Deaf
Office - (317) 550-4866
Cell - (317) 681-3573
JHawk@isd.k12.in.us