

**MINUTES OF THE MEETING OF  
THE INDIANA STATE ETHICS COMMISSION  
May 13, 2021**

**I. Call to Order**

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:04 a.m. The meeting was held virtually using Microsoft Teams. Commission members present were Katherine Noel, chair; Sue Anne Gilroy; Kenneth Todd; and Rafael Sanchez (arrived at 10:09 a.m.). Staff present included David Cook, Inspector General; Tiffany Mulligan, Chief Legal Counsel, Office of Inspector General; Jennifer Cooper, State Ethics Director; Mark Mitchell, Director of Investigations, Office of Inspector General; Luba Gore, Staff Attorney, Office of Inspector General; Cindy Scruggs, Administrative Director, Office of Inspector General; Mike Lepper, Investigator, Office of Inspector General; and Nathan Baker, Legal Assistant, Office of Inspector General.

Others present were: Deana Smith, Ethics Officer, Indiana State Department of Health; Tamera Glickman, Deputy General Counsel, Indiana Department of Administration; Sylvia Watson, General Counsel and Ethics Officer, Indiana State Library; Amber Nicole Ying, Special Counsel/Director, Compliance and Ethics and Ethics Officer, Department of Revenue; Rachel Russell, Ethics Officer, Department of Child Services; Ed Feigenbaum, Indiana Legislative Insight; Bruno Pigott, Commissioner, Indiana Department of Environmental Management; Alex Van Gorp, Staff Attorney, Indiana Department of Health; Jessica Keyes, Ethics Officer, Family and Social Services Administration; Kathleen Mills, Ethics Office, Indiana Department of Environmental Management; Whitney Fritz, Staff Attorney, Department of Child Services; Mattheus Mitchel, Compliance and Ethics Specialist, Department of Revenue; Kristi Shute, Deputy General Counsel and Ethics Officer, Indiana Department of Homeland Security; David Johnson, Ethics Officer, Indiana Attorney General’s Office; Brittny Downing, Associate Director of Administrative Services, Family and Social Services Administration; Jody Kress, Executive Director, Indiana Natural Resources Foundation; Samantha E. DeWester, General Counsel and Ethics Officer, Department of Natural Resources; John Howard, Senior Environmental Manager, Indiana Department of Environmental Management; Justin Paicely, Deputy General Counsel, Department of Natural Resources; and, Rebecca McClain, Staff Attorney, Department of Natural Resources.

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

Commissioner Todd moved to adopt the Agenda and Commissioner Gilroy seconded the motion which passed (3-0).

Commissioner Todd moved to approve the Minutes of the April 15, 2021 Commission Meeting and Commissioner Gilroy seconded the motion which passed (3-0).

### **III. Consideration of Waiver of Post-Employment Restrictions for John Howard**

Bruno Pigott, Commissioner of the Indiana Department of Environmental Management; and Kathleen Mills, Ethics Officer of the Indiana Department of Environmental Management, presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

Commissioner Gilroy moved to approve the Waiver, and Commissioner Todd seconded the motion which passed (4-0).

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

2021-FAO-005

Jody Kress, Executive Director, Indiana Natural Resources Foundation  
Samantha E. DeWester, General Counsel and Ethics Officer  
Indiana Department of Natural Resources

Samantha DeWester is the General Counsel and Ethics Officer for the Indiana Department of Natural Resources (DNR). She requested a formal advisory opinion on behalf of the Indiana Natural Resources Foundation (Foundation).

The Foundation is a quasi-governmental entity tasked with aiding and supporting DNR in its mission. The Foundation's mission is to celebrate and preserve Indiana's natural legacy by raising funds to support the DNR and its programs.

Under IC 14-12-1-4 the Indiana General Assembly created the Foundation as a public body corporate and politic (a not-for-profit section 115 corporation) to acquire real and personal property to be donated to DNR.

According to its [website](#), the Foundation "work[s] diligently with the [DNR] to identify the greatest conservation needs, adventurous outdoor education opportunities and new ways to introduce Hoosiers to nature by providing exciting outdoor recreation opportunities."

Ms. DeWester provides that the Foundation would like to conduct an auction to support its annual fund. The auction would be comprised of experiences on DNR properties and include DNR staff in functions they typically perform, as well as a few more unique experiences.

Ms. DeWester provides that, while the primary goal of this effort is to raise funds, it is also to promote DNR properties and activities throughout the State of Indiana. Ideally, the Foundation would like to hold the auction again in the future and look to change the experiences. The Foundation would like to encourage people to experience the DNR in ways that create memorable experiences that keep them coming back year after year.

Ms. DeWester provides the following examples of experiences that would be "routine":

1. Weekend for up to eight people at the Covered Bridge Retreat.
2. Weekend/Week in a State Park Inn or Cabin.
3. Two side-by-side campsites for the 2024 Eclipse when Indiana is in totality.

4. Private Party for twenty to thirty at Pokagon Toboggan (held on a day separate from regular hours of operation, likely on a Wednesday or Thursday).

The following are examples of experiences that are more “unique”:

1. Candlelight dinner for up to twelve people in the Mill at Spring Mill State Park.
2. Lake James wine cruise at Pokagon State Park.
3. Guided hikes at various locations for up to eight to ten people across different DNR properties.
4. Guided kayak trip for eight to ten people (Patoka Lake, Chain O’lakes, O’Bannon Woods).
5. Guided lake history tour for six to eight people at a reservoir property.

Ms. DeWester seeks a formal opinion as to whether staffing these activities would be an appropriate use of DNR staff and resources. Ms. DeWester feels this would be considered official state business because the Foundation is a quasi-governmental entity tasked with aiding and supporting DNR in its mission.

The analysis stated the following:

Ms. DeWester’s request for a formal advisory opinion invokes consideration of the provisions of the Code pertaining to Use of State Property and Ghost Employment. The application of each provision to DNR employees is analyzed below.

IC 4-2-6-17 (42 IAC 1-5-12) 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 the Commission has approved.

Likewise, 42 IAC 1-5-13, the ghost employment rule, prohibits a state officer, employee or special state appointee 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.

Accordingly, if DNR is paying its employees to facilitate these activities, DNR would need to determine whether such work would be considered part of their official duties.

Based on the information provided, the Foundation was created to accept donations of personal and real property to DNR. The Foundation is attempting to solicit increased donations by hosting a proposed auction whereby donors would bid on various experiences that would occur in DNR-operated parks and recreational areas. In order to facilitate these activities, DNR employees would utilize state facilities/property to host these experiences.

The Commission finds that hosting these experiences for the Foundation would be official state business. The Foundation was expressly created by the General Assembly to support the DNR, and these experiences are being created to raise funds to support the DNR. Accordingly, the Commission finds it is permissible for the Foundation to use state resources including DNR staff,

within the scope of their normal day-to-day activities, and DNR property to provide these experiences to donors.

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

**V. Request for Formal Advisory Opinion**

2021-FAO-006

Brittney Downing, Associate Director of Administrative Services  
Jessica Keyes, Staff Attorney and Ethics Officer  
Indiana Family and Social Services Administration

Jessica Keyes is the Ethics Officer for the Indiana Family and Social Services Administration (FSSA). Ms. Keyes is requesting an advisory opinion on behalf of Brittney Downing, Associate Director of Administrative Services with FSSA's Vocational Rehabilitation (VR) services program.

In her role, Ms. Downing oversees the case management system, Aware, which has thirteen interconnected interfaces. Ms. Downing also assists with business process writing, federal reporting, fiscal budgeting and data analysis.

Ms. Downing plans to move out of state on or about May 16, 2021, and she cannot remain in state employment in her current role. Public Consulting Group, Inc. (PCG) approached Ms. Downing's supervisor regarding an opportunity for employment after learning that Ms. Downing was relocating, and Ms. Downing's supervisor advised her of the opportunity. Ms. Downing then reached out to a contact she knew with PCG through a launch meeting regarding the opportunity on or about March 18, 2021, and formally sent her resume to PCG on March 26, 2021. Ms. Downing interviewed with PCG on March 31, 2021. PCG offered Ms. Downing the role of consultant on or about April 13, 2021.

The opportunities and projects on which PCG would like Ms. Downing to work include the following:

- Supporting the development of a new quality assurance program for a state VR agency client;
- Comprehensive Statewide Needs Assessment (CSNA) report development for three current state VR agency clients;
- Provider services rate setting for a VR state agency client;
- Supporting business development efforts with VR state agencies; and
- Maintaining market visibility with national associations and conferences.

None of these projects involve Indiana programs. PCG advised they have no current need to assign Ms. Downing to any Indiana related projects or initiatives.

PCG assists mostly public sector services relating to health, education and human services relating to performance and processes. PCG has thirty-eight locations with approximately one thousand open contracts and works with all fifty states and international providers. PCG contracts with Indiana and FSSA, and presently, there are thirty-three total active contracts between the State and PCG.

PCG contracted with FSSA's Division of Disability and Rehabilitative Services (DDRS) to develop and implement a VR Claims payment system for vendors to submit claims via the web and provide fiscal services to those vendors by making timely payments for the services provided to VR program participants. Another FSSA employee administers the PCG claims contract for FSSA's VR Program. Ms. Downing oversees the Aware contract, which is a case management system. Aware is a separate contract, but some interfaces of Aware work with PCG and claims processing. The State also contracts with PCG through DDRS for PCG to provide pre-employment transition services. Ms. Downing did not oversee, manage, procure or have other involvement with this pre-employment transition services contract.

Ms. Downing has been involved in approximately thirty telephone calls regarding Aware's Claims Payment System processes, issues and information gathering for projects. Ms. Downing participated in those calls as the subject matter expert for the interconnected case management interfaces, and many calls included all interface stakeholders. Ms. Downing did not lead or organize these calls. Another employee has always been the liaison with PCG regarding the claims processing system, and Ms. Downing does not have contracting responsibility for FSSA. Ms. Downing also has not made a regulatory or licensing decision that directly applied to PCG or to a parent or subsidiary of PCG through her current role with FSSA's VR Program.

FSSA's VR Program has applied for a grant project with PCG that would begin in October 2021. Ms. Downing was not a key point of contact for the PCG grant application. Several stakeholders, both internal and external, and state employees gathered and prepared information for the grant application submission. Participants included people from at least seven teams or groups. Ms. Downing's responsibilities were limited to pulling data and participating in no more than two telephone calls regarding the grant. The grant will not be awarded until July or August 2021.

Ms. Downing's employment with PCG is not contingent upon her working on the grant project if FSSA's VR Program is awarded the grant, but she is interested in a determination regarding whether she would be able to work on the grant if FSSA's VR Program is a grant recipient.

If she accepts the role of consultant with PCG, she is not aware of any intentions for her to work on any projects or contracts with FSSA. Rather, Ms. Downing will be analyzing data regarding substance abuse for PCG, and although she may assess information and data for states with contracts with PCG, she does not believe that she would be analyzing data for Indiana or submitting claims to Indiana. To Ms. Downing's best information and belief, no executive branch lobbying is associated with the role of consultant, nor is that the business of PCG.

Ms. Downing understands that she may not participate in any decision or vote, or matter relating to any decision or vote, for FSSA related to PCG due to her negotiations concerning prospective employment. Ms. Downing filed a disclosure form on April 22, 2021, screening Ms. Downing from participating in any votes, decisions or other matters where PCG may have a financial interest. Ms. Downing also understands that she may not benefit from or divulge confidential information except as permitted by law.

FSSA is seeking the Commission's opinion regarding the application of any of the rules in the Code to Ms. Downing's post-employment opportunity with PCG.

The analysis stated the following:

Ms. Keyes' request for a formal advisory opinion invokes consideration of the provisions of the Code pertaining to Confidential Information, Conflicts of Interests and Post-employment. The application of each provision to Ms. Downing is analyzed below.

*A. Confidential Information*

IC 4-2-6-6 prohibits Ms. Downing from accepting any compensation from any employment, transaction or investment that was entered into or made as a result of material information of a confidential nature. So long as any compensation Ms. Downing receives does not result from confidential information, her potential employment with PCG would not violate IC 4-2-6-6.

*B. Conflict of Interests*

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

In this case, employment negotiations have already begun. Accordingly, Ms. Downing would be prohibited from participating in any decision or vote, or matter related to a decision or vote, in which she, by virtue of her employment negotiations with PCG, or PCG would have a financial interest in the outcome of the matter.

Based on the information provided, it appears that a potential conflict of interests was identified. IC 4-2-6-9(b) requires that a state employee who identifies a potential conflict of interests notify her agency's appointing authority and ethics officer and either (1) seek a formal advisory opinion from the Commission; or (2) file a written disclosure form with the Office of Inspector General (OIG).

Ms. Downing, with Ms. Keyes' assistance, filed the disclosure form with the OIG on April 22, 2021. The disclosure included the notification to FSSA's appointing authority, Dr. Jennifer Sullivan, and included a description of the screen that FSSA implemented to ensure that Ms. Downing does not participate in any votes, decisions or other matters in which PCG may have a financial interest.

Accordingly, the disclosure requirements under IC 4-2-6-9(b) have been satisfied; however, Ms. Downing must ensure she continues to refrain from participating in any decisions or votes, or matters relating to any such decisions or votes, in which she or PCG has a financial interest in the outcome of the matter for the remainder of her state employment.

### *C. Post-Employment*

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

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

Based on the information provided, Ms. Downing would not be engaging in any lobbying activities in her prospective employment with PCG. To the extent that Ms. Downing does not engage in executive branch lobbying for one year after leaving state employment, her intended employment with PCG would not violate this provision of the post-employment rule.

Second, Ms. Downing is prohibited from accepting employment for 365 days from the last day of her state employment from an employer with whom 1) she engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of the contract.

PCG has an active contract with FSSA's VR Program, of which Ms. Downing is a part. She has overseen the case management system that has interfaces with PCG through the Claims Repayment System and has been a participant on calls on which all interface stakeholders were included; however, her involvement in these discussions was as an Aware subject matter expert, and she had no involvement in the contract creation, execution or administration of PCG's contract. Instead, a different FSSA employee handles the contract.

Accordingly, the Commission finds that Ms. Downing would not be subject to the cooling off restriction for her role in interacting with PCG through calls regarding the case management system she oversees as part of FSSA's VR Program's claims processing system because she was not involved in the negotiation or administration of PCG's contract with FSSA.

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

Ms. Keyes provides that Ms. Downing has not made any regulatory or licensing decisions in her position with FSSA that directly applied to PCG or to a parent or subsidiary of PCG in her role with FSSA's VR Program. Accordingly, the Commission finds that this provision of the cooling off restriction would not apply to her prospective position with PCG.

Fourth, Ms. Downing is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence her in her official capacity as a state employee. The information presented to the Commission does not suggest that PCG has extended an offer of employment to Ms. Downing in an attempt to influence her in her capacity as a state employee. Accordingly, the Commission finds that this restriction would not apply to her intended employment opportunity with PCG.

Finally, Ms. Downing is subject to the post-employment rule's "particular matter" prohibition in her prospective post-employment. This restriction prevents her from representing or assisting a person on any of the following twelve matters if she personally and substantially participated in the matter as a state employee: 1) an application, 2) a business transaction, 3) a claim, 4) a contract, 5) a determination, 6) an enforcement proceeding, 7) an investigation, 8) a judicial proceeding, 9) a lawsuit, 10) a license, 11) an economic development project, or 12) a public works project. The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

In this instance, Ms. Downing would be prohibited from representing or assisting PCG, as well as any other person, in a particular matter in which she personally and substantially participated as a state employee.

Ms. Keyes provides that FSSA's VR Program has applied for a grant project with PCG that would begin in October 2021. Ms. Downing was not a key point of contact for the PCG grant application, but she was a member of a group of stakeholders, including state employees from a number of different groups/teams, who gathered and prepared information for the grant application. Ms. Downing's participation in this process was limited to pulling data and participating in no more than two telephone calls regarding the grant.

Based on the information provided by Ms. Keyes, the Commission finds that Ms. Downing's participation in the application was not personal and substantial. Accordingly, the particular matter restriction would not apply to Ms. Downing and she would be permitted to participate in the grant application and the potential resulting grant project for her new employer.

Ms. Downing should also keep in mind that she is prohibited from assisting PCG or any other person on any of the other particular matters listed above on which she may have personally and substantially worked during her state employment regardless of whether it involves PCG.



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

**VI. Director's Report**

State Ethics Director, Jen Cooper, stated that OIG staff has issued 20 informal advisory opinions since the previous last meeting. The majority of these requests dealt with questions concerning conflicts of interests, use of state property, ghost employment, outside employment, post-employment and gifts.

Director Cooper continued that this summer's Auditor & Investigator Conference is set for June 23<sup>rd</sup> and June 24<sup>th</sup>. It will be a virtual conference and will feature several presentations, including segments from Attorney General Todd Rokita and Auditor of State Tera Klutz.

**VII. Adjournment**

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

The public meeting adjourned at 10:46 a.m.

INDIANA  
STATE ETHICS COMMISSION

SECRETARY OF STATE

MAY 17 2021

STATE OF INDIANA

200 W. WASHINGTON STREET, INDIANAPOLIS, IN 46204

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FILED

**Agency policy for limited use of state property for other than official business**

Submitted to the Indiana Ethics Commission on: MAY 17, 2021

Approved by the Indiana Ethics Commission on: \_\_\_\_\_

**I. PURPOSE**

IC 4-2-6-17 and 42 IAC 1-5-12 prohibit state officers, employees and special state appointees from using state materials, funds, property, personnel, time, 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 Indiana Ethics Commission.

42 IAC 1-5-13 prohibits a state officer, employee, or special state appointee 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.

IC 4-2-6-15.5 regulates use of state funds for creation, development, and posting information on social media relating to official duties of a state officer. Information posted on social media may contain the name and likeness of a state officer subject to restrictions provided in IC 4-2-6-15.5(c). IC 4-2-6-15.5(c) does not prohibit a state officer from using state funds to pay a nongovernmental entity that is not a social media service provider for ancillary or de minimis expenses incurred in posting information on social media, such as the cost of transmitting data by means of the Internet or a cellular telephone network to the social media provider.

This policy establishes guidelines for other official uses of state materials, funds, property, personnel, time, facilities, or equipment by the Secretary of State and Office of the Secretary of State (the Agency), including its state officer, employees, and special state appointees. This policy also documents guidelines for permitted expenses incurred in posting information on social media.

This policy is being submitted to the State Ethics Commission for review and approval.

## **II. APPLICABILITY**

This policy applies to the Agency, including the state officer, employees, and special state appointees of the Agency. This policy replaces/rescinds any previous limited or de minimis use policies adopted by the Agency.

## **III. POLICY STATEMENTS**

The Agency, its state officer, employees, and special state appointees perform a variety of official duties for numerous and diverse constituencies, across the geography of the State and beyond, in a continuous, constant capacity and often exceeding the scope of normal business locations and hours. As a result, it's inevitable, reasonable, and efficient that concurrent with official business, the Agency, state officer, employees, and special state appointees, make occasional, non-official, and de minimis use of state materials, funds, property, personnel, time, facilities, or equipment. This general policy expressly permits non-official use of state materials, funds, property, personnel, time, facilities, or equipment for purposes other than official state business.

When in furtherance of, concurrent with, or associated with, official state business, the limited, occasional or de minimis non-official use of state materials, funds, property, personnel, time, facilities, or equipment is permitted by the Agency and shall not be considered a violation of the Indiana Code of Ethics or ethics rules.

Additionally, this policy expressly permits the Agency, state official, employees and special state appointees to use state materials, funds, property, personnel, time, facilities, or equipment for the following: (1) to coordinate the state official's official, personal, and political schedules and calendars; (2) to provide transportation and security for the state official, employees or special state appointees, and; (3) for de minimis personal or political communications or activity incidental to, or concurrent with, the state official's official business.

The parameters of permissible use under this policy are as follows:

- a. The use must be de minimis, infrequent, of short duration, incidental to, or concurrent with, state business, and not practically, reasonably, or efficiently made with the state official, employee, or special state appointee's personal resources under the circumstances.
- b. Uses permitted under IC 4-2-7-5; and
- c. Expenditures for social media content, creation, development, posting must comply with IC 4-2-6-15.5.

**IV. COMPLIANCE**

The Agency, including deputies, special state appointees, supervisors, and employees are responsible for monitoring permissible use of state materials, funds, property, personnel, time, facilities, or equipment within areas of supervision or activity. Misuse of state materials, funds, property, personnel, time, facilities, or equipment will be reported to the Agency executive and may be reported or referred to the Inspector General or Ethics Commission. State officers, employees and special state appointees who violate this policy are subject to disciplinary action by the Agency, as well as authority of Inspector General and Ethics Commission.

**V. LEGAL REFERENCES**

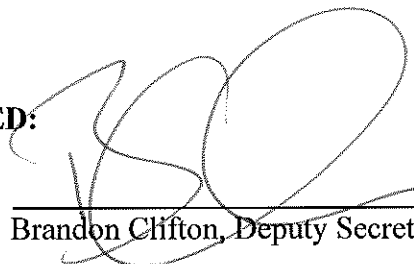
IC 4-2-6-15.5

IC 4-2-6-17

IC 4-2-7-5

42 IAC 1-5-12

42 IAC 1-5-13

**VI. EFFECTIVE DATE:** May 17, 2021**VII. ENDING DATE:** Upon rescission**APPROVED:**  
\_\_\_\_\_  
Brandon Clifton, Deputy Secretary of StateDate: 5/17/2021





# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • [www.idem.IN.gov](http://www.idem.IN.gov)

**Eric J. Holcomb**  
Governor

**Bruno L. Pigott**  
Commissioner

## IC 4-2-6-11

### Post-employment waiver

As the Appointing Authority of the Indiana Department of Environmental Management (IDEM), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Kimberly Rohr in her post-employment with the Town of Zionsville.

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

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

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

In 2013 and 2014, Ms. Rohr, as part of her duties at IDEM, inspected the wastewater treatment plant of the Town of Zionsville. She has not been assigned or involved in any matters regarding the town since that time.

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

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

Ms. Rohr is a Senior Environmental Manager within the Office of Water Quality (“OWQ”) at IDEM. Her duties in this position include sewer ban coordinator, lab and operation assistance and wastewater facility inspector. As sewer ban coordinator, she analyzes flows of municipal wastewater treatment plants to ensure the facilities are not operating the plant above what it is designed to treat. She inspects wastewater treatment facilities for compliance with their NPDES permits and provides lab training and trouble shooting of operational issues at small treatment plants. She does not have any substantial decision-making authority over policies, rules, or contracts.

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

The Town of Zionsville has offered Ms. Rohr the position of Wastewater Lab Manager. In that position, she would be responsible for the operation of the treatment plant laboratory and the monitoring of changing plant conditions due to inclement weather. The position requires the collection and analysis of samples to monitor the performance of the wastewater treatment plant. She would record and report results for State reporting purposes and trouble shoot any problems.

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

Although the prospective position might require periodic contact with IDEM, that contact would not be substantial. IDEM only inspects the wastewater treatment plant once every one to two years. The position requires the collection and analysis of samples to monitor the performance of the treatment plant. Ms. Rohr may or may not analyze the samples. If she does not analyze the samples, she would monitor the individual who does conduct the analysis. Ms. Rohr would record and report the results of that analysis to the State on the state MRO and federal DMR forms. IDEM uses these forms to determine compliance with effluent limitations for the NPDES permit. So in essence, IDEM would be relying on information provided by Ms. Rohr (but not necessarily her work product).

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

The prospective employment would be beneficial to the State and public. Ms. Rohr, during her years at IDEM, has acquired substantial knowledge of wastewater treatment plant operations. Her lab training and trouble-shooting of operational issues at small treatment plants, can only help the Town of Zionsville in its endeavor to provide safe drinking water. As an inspector and sewer ban coordinator, Ms. Rohr has become quite knowledgeable of the federal and state requirements applicable to protecting human health and the environment. Her ability to use her environmental knowledge to protect the Town of Zionsville is consistent with the public interest.

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

If the waiver is not granted, Ms. Rohr will be unable to begin employment with the Town of Zionsville. The extent of economic hardship that would result to her from being unemployed would be severe.

### C. Signatures

1. Appointing authority/state officer of agency

By signing below, I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an

employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.

Bruno Pigott

Bruno L. Pigott, Commissioner  
Indiana Department of Environmental Management

5/20/2021

DATE

2. Ethics Officer of agency

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

Kathleen Mills

Kathleen Mills, Ethic Officer  
Indiana Department of Environmental Management

05/20/2021

DATE

D. Approval by State Ethics Commission

**FOR OFFICE USE ONLY**

Approved by State Ethics Commission

\_\_\_\_\_  
Katherine Noel, Chair, State Ethics Commission

\_\_\_\_\_  
Date

Mail to:

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

OR

Email scanned copy to: [info@ig.in.gov](mailto:info@ig.in.gov)

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





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

As the Appointing Authority of the Indiana Housing and Community Development Authority (IHCDA), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Veronica Watson in her post-employment discussions with Ohio Valley Opportunities Community Action Agency.

I understand the agency must file and present this waiver to the State Ethics Commission at their next available meeting. Our Ethics Officer, Kyleen Welling, is prepared to attend the next scheduled meeting to present this waiver. I further understand that this waiver is not final until approved by the State Ethics Commission.

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

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

**IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. (Please see B. 1(b) below).**

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



ADDRESS 30 South Meridian Street, Suite 900, Indianapolis, IN 46204  
PHONE 317 232 7777 TOLL FREE 800 872 0371 WEB [www.ihcda.IN.gov](http://www.ihcda.IN.gov)

EQUAL OPPORTUNITY EMPLOYER AND HOUSING AGENCY

State of Indiana  
Lieutenant Governor  
Suzanne Crouch



- a. **Policies and Rules:** The employee serves as IHCDA's Manager overseeing the Community Services Block Grant (CSBG), Individual Development Account and Neighborhood Assistance programs. In that capacity Veronica oversees grant awards made from those funding sources, provides technical assistance and training, drafts policies and manuals, and complies reporting to the federal or state governments.

The largest program of the three is the CSBG program, which is a federal program through the United States Department of Health and Human Services (HHS) administered by the IHCDA. The program began in 1981 and has operated continuously since that time. IHCDA began to oversee the program in 2007 after taking it over from the Family and Social Services Agency.

Community Action Agencies (sometimes called Community Action Programs or CAPs) are designated by federal law to be eligible to receive at least 90% of a state's annual allocation of CSBG. CAPs are local non profit agencies or local units of government that work to alleviate the conditions and causes of poverty. In Indiana, CAP agencies were originally authorized by the Governor's Office, and the criteria to be considered a CAP agency are found in I.C. 12-14-23. There are currently 22 Community Action Agencies in Indiana and each serves multiple counties in their region. Indiana's most recent annual CSBG award was for \$10,669,000 which was distributed amongst the 22 CAP agencies.

CAP agencies may use CSBG funds for a variety of activities, including staffing and administrative costs and to operate programming for low income clients. CAP agencies inform IHCDA of their annual plans for using the allocation of funds, but IHCDA does not have the authority to dictate what programming or expenses they may use the funds on, beyond setting a limit on administrative expenses. CAP agencies are monitored periodically to ensure CSBG funds are spent appropriately and that other requirements established by IHCDA and HHS are complied with.

Veronica does participate in conversations around setting policies for the CSBG program, though many of the requirements are straight from the federal authorizing legislation and rules and can not be altered or waived by IHCDA.

- b. **Contracts:** The IHCDA is a public body corporate and politic established by IC 5-20-1-3. The Authority is governed by a Board of Directors which consists of seven members and is chaired by the Lieutenant Governor. The Board of Directors has delegated certain authority to IHCDA's Executive Director to approve contracts and formula awards for grants.

IHCDA's Board of Directors has approved a formula award matrix for use with the CSBG program, which Veronica oversees. The matrix assigns point values to various socio-economic indicators such as unemployment and poverty rates within a county. This matrix was approved by IHCDA's Board of Directors prior to Veronica's employment with IHCDA and is used to determine award amount for the annual CSBG award to local Community Action Agencies. Those dollar

amounts are sent to IHCDA's Executive Director who approves them. Individual grant agreements are then sent to each Community Action Agency for signature. As indicated these awards originated in 1981 and have pretty much continued since that time. Once a Community Action Agency is designated, it will be eligible for an annual allocation of CSBG funds unless it is de-designated by IHCDA and the HHS.

Ohio Valley Opportunities is an existing Community Action Agency and receives an annual CSBG allocation, and have since 2007 when this program moved to IHCDA. This grant award amount was determined by the award matrix approved by IHCDA's Board of Directors. Veronica then serves as the main agency point of contact on the grant agreement. The grant agreement is monitored by a different department at IHCDA. Veronica is supervised by the Director of Community Programs division at IHCDA. Major decisions regarding the administration of the grant agreement with Ohio Valley Opportunities would be decided on by the Director, often in consultation with IHCDA's General Counsel or Chief of Staff and Chief Operating Officer.

Ohio Valley Opportunities has three current grant agreements active, which would require a **particular matter** waiver to enable her to perform her new job duties successfully. Those awards are:

- a. 2020 Regular program award which expires 9/30/2021 in the amount of \$235,103.39.
- b. CARES Act special award which expires 9/30/2022 in the amount of \$294,418.90.
- c. 2021 Regular program award which expires 9/30/2022 in the amount of \$220,124.08.

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

The prospective employment is the CSBG Operations Manager, a new role at Ohio Valley Opportunities. In this role Veronica would help develop program plans and policies, respond to monitoring findings, create corrective action plans and help oversee the program budget for the CSBG program and any activities funded by the CSBG dollars.

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

The prospective employment is likely to involve substantial contact with IHCDA. Veronica would interact with her replacement and other existing IHCDA staff to help oversee monitoring and compliance visits, audits, etc.

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

The CSBG program can be very cumbersome and tedious for CAP agencies to administer, the amount of federal guidelines and rules is quite substantial in comparison to the award amounts for a typical CAP program. Veronica's expertise in the program would aid Ohio Valley Opportunities in being more efficient and effective with their award and would thus result in more dollars being available for programming to serve low income families and individuals in the Ohio Valley Opportunities territory which consists of Jefferson, Jennings and Scott Counties.

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

None

C. Signatures

1. Appointing Authority/state officer of agency

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

  
\_\_\_\_\_  
J. Jacob Sipe, Executive Director

June 2, 2021  
\_\_\_\_\_  
Date

2. Ethics Officer of agency

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

  
\_\_\_\_\_  
S. Kyleen Welling

6/2/2021  
\_\_\_\_\_  
Date

D. Approval by State Ethics Commission

**FOR OFFICE USE ONLY**

Approved by State Ethics Commission

\_\_\_\_\_  
Katherine Noel, Chair, State Ethics Commission

\_\_\_\_\_  
Date

Mail to:

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

OR

Email scanned copy to: [info@ig.in.gov](mailto:info@ig.in.gov)

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







Indiana  
Department  
of  
Health



Eric J. Holcomb  
Governor

Kristina M. Box, MD, FACOG  
State Health Commissioner

## IC 4-2-6-11

### Post-employment waiver

As the Appointing Authority of Indiana Department of Health, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Lynette Smith in her post-employment with a LabCorp laboratory in South Bend, Indiana.

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

- A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of  
*(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*
- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
  - IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
  - IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
  - IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

To **promote**, **protect**, and **improve** the health and safety of all Hoosiers.





It is possible, but not likely that Mrs. Smith may be asked by LabCorp to assist LabCorp with determinations or enforcement proceedings involving other LabCorp laboratories she previously surveyed and/or made regulatory decisions.

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

Mrs. Smith's duties as a Medical Surveyor III does not involve substantial decision-making authority over policies, rules, or contracts. That authority is the primary responsibility of the Centers for Medicare and Medicaid Services (CMS); the Acute and Continuing Care Division Director; and the Indiana Director of Food Protection Division.

Mrs. Smith has not promulgated any rules. She does make decisions regarding a facility's compliance with CLIA regulations, outpatient physical therapy regulations, portable x-ray regulations, hospital rules and regulations, ambulatory surgery center rules and regulations, blood center rules, and the Indiana Food Code. Mrs. Smith has no enforcement authority. That authority is the primary responsibility of CMS. Mrs. Smith also participates in the review of Plans of Correction and Allegations of Compliance, but decisions of a plan's acceptability is not made solely by Mrs. Smith. The decision is a team effort between the surveyor, quality review medical surveyor, the program manager, and sometimes the CMS consultant. As an accredited laboratory, Mrs. Smith has not made a prior compliance decision for the LabCorp laboratory at the South Bend, Indiana location (CLIA number 15D2171417). Additionally, Mrs. Smith's potential employment with LabCorp will only involve the South Bend, Indiana laboratory with the CLIA number 15D2171417.

Although Mrs. Smith has not made any regulatory decisions that applied to the specific LabCorp laboratory at which she intends to work, she has surveyed and made regulatory decisions for three other LabCorp-owned laboratories. Because the restriction applies to the employer (and its parent or subsidiary) and not





individual facilities, she would be prohibited from accepting employment from LabCorp and working for any LabCorp facility until the cooling off period expires.

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

Some duties Mrs. Smith will perform in her new position with LabCorp include:

- Managing the day-to-day operations of the accredited laboratory (CLIA number 15D2171417 only).
- Provide oversight and support to a team of supervisors and laboratory staff (CLIA number 15D2171417 only).
- Monitor and manage productivity of the laboratory (CLIA number 15D2171417 only).
- Monitor staffing models and address inefficiencies for laboratory (CLIA number 15D2171417 only).
- Monitor customer satisfaction for laboratory (CLIA number 15D2171417 only).

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

Mrs. Smith is not likely to have substantial contact with ISDH in her role as the Laboratory Manager at LabCorp (CLIA number 15D2171417). LabCorp is accredited by the College of American Pathologists (CAP) and is routinely surveyed by its accrediting body, and not ISDH surveyors. Additionally, Mrs. Smith would only be responsible for the LabCorp laboratory located in South Bend, Indiana (CLIA number 15D2171417) and would not participate in a CLIA survey conducted by ISDH at another location or CLIA number. However, potential future contact with ISDH may involve a validation survey performed by ISDH at the LabCorp laboratory in South Bend, Indiana. This contact with Mrs. Smith would be limited, as the majority of the survey activities would involve review of information provided by the laboratory's supervisory staff and not Mrs. Smith. Mrs. Smith's role as the laboratory manager would be to ensure the survey team receives the information needed from the supervisory staff and





report any compliance related issues to LabCorp's director of operations. Currently, only about 2% of the laboratories accredited by CAP are surveyed each year nationwide. Validations surveys are typically performed as a "lookback," no more than three months after the CAP survey was performed. The LabCorp laboratory in South Bend (CLIA # 15D2171417) received their last CAP survey in October of 2020. Since CAP surveys are performed approximately every two years, the next CAP survey would be scheduled for the fall of 2022. If this lab is chosen for a validation survey, it would not occur prior to fall of 2022, which would be greater than 365 days post-employment for Mrs. Smith. Therefore, the likelihood of LabCorp in South Bend receiving a validation survey is low and if it should receive a validation survey, Mrs. Smith's involvement in the survey would be limited. Additionally, Mrs. Smith would not be involved in the compliance decision making by ISDH surveyors, nor has she been involved with compliance decision making for the LabCorp lab in South Bend (CLIA number 15D2171417) in the past. Other potential contact may be made if ISDH needs to be contacted to make certain changes (such as demographic information) on the CLIA certificate. This contact would not involve regulatory decision making and any changes would be required to be approved by the LabCorp laboratory director. Mrs. Smith would simply be the person to provide the documentation to ISDH for the change.

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

Mrs. Smith's employment with LabCorp would be beneficial to the state and public because she has knowledge of quality assessment, performance improvement, good laboratory practices, and CLIA regulations. She is also knowledgeable in laboratory processes and with her knowledge. Mrs. Smith will be able to:

- Improve the quality of LabCorp's laboratory testing for the public.
- Help the LabCorp focus on continuous performance improvement of all laboratory tests offered.
- Increase LabCorp's understanding of regulatory compliance.
- Provide insight on CLIA and public health concerns with regards to SARS-CoV-2 testing.





- Educate laboratory staff about the importance of compliance with rules and regulations and maintaining that compliance.
- Continue to promote and provide essential public health services, in the form of quality laboratory testing, consistent with the mission of ISDH.

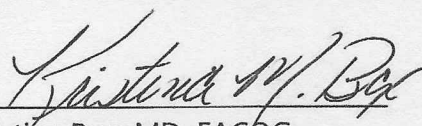
5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

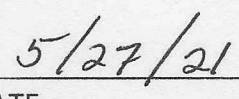
Denying this waiver would provide a substantial economic hardship for Mrs. Smith's family and future. The prospective employer offers significantly more in compensation and provides a stable employment position. In addition, the professional growth offered by the prospective employer could potentially help the State and public health, considering Mrs. Smith's expertise in laboratory testing, quality assessment, performance improvement, and regulatory compliance.

C. Signatures

1. Appointing authority/state officer of agency

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

  
\_\_\_\_\_  
Kristina Box, MD, FACOG  
State Health Commissioner

  
\_\_\_\_\_  
DATE





2. Ethics Officer of agency

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

Deana M. Smith  
Deana M. Smith

5/27/2021  
DATE

D. Approval by State Ethics Commission

**FOR OFFICE USE ONLY**

Approved by State Ethics Commission

\_\_\_\_\_  
Katherine Noel, Chair, State Ethics Commission

\_\_\_\_\_  
Date

Mail to:

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

OR

Email scanned copy to:

[info@ig.in.gov](mailto:info@ig.in.gov)

*Upon receipt you will be contacted*



**Indiana**  
Department  
of  
**Health**



Eric J. Holcomb  
*Governor*

Kristina M. Box, MD, FACOG  
*State Health Commissioner*

June 2, 2021

Katherine Noel, Chairman  
Indiana State Ethics Commission  
315 West Ohio Street, Room 104  
Indianapolis, IN 46202

Subject: Waiver of post-employment restriction for Lynette Smith

Dear Ms. Noel:

As the State Health Commissioner and appointing authority, I am writing to you to express my support and approval of the Indiana Department of Health's (IDOH) waiver for post-employment restrictions for Lynette Smith's proposed employment with LabCorp.

I regret that I am unable to appear in person to present the waiver. Unfortunately, I have scheduling conflicts that preclude me from attending. I asked my Chief of Staff, Shane Hatchett, to attend the Commission meeting on my behalf. I understand that IC 4-2-6-11(g) requires the state appointing authority authorizing the waiver to present it to the Commission, and I greatly appreciate your granting my request for this alternative arrangement in advance of the June 10, 2021 meeting.

I fully support and approve this waiver. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads 'Kristina M. Box'.

Kristina M. Box, MD, FACOG  
State Health Commissioner

cc: Indiana Office of Inspector General

To **promote**, **protect**, and **improve** the health and safety of all Hoosiers.