

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
March 12, 2020**

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 Corinne Finnerty; Kenneth Todd; and Rafael Sanchez. Staff present included Lori Torres, Inspector General; Jennifer Cooper, State Ethics Director; Tiffany Mulligan, Chief Legal Counsel, Office of Inspector General; Luba Gore, Staff Attorney, Office of Inspector General; Kelly Elliott, Staff Attorney, Office of Inspector General; and Nathan Baker, Legal Assistant, Office of Inspector General.

Others present were Anthony Caso, Major, Indiana State Police; Staci Schneider, Chief of Staff, Auditor of State; Jon Ferguson, Chief Legal Officer, Indiana Department of Correction; Monica Gipson, Executive Director, Indiana Department of Correction; Randy Koester, Chief of Staff, Indiana Department of Correction; Kristi Shot, Deputy General Counsel, Indiana Department of Homeland Security; Kathy Mills, Chief Ethics Officer, Indiana Department of Environmental Management; Maurcia Crutcher, Administrative Assistant, Family and Social Services Administration; Caroline Ryker, Ethics Officer, Indiana Civil Rights Commission; Beth Green, General Counsel/Ethics Officer, Department of Workforce Development; Deana Smith, Ethics Officer, Indiana State Department of Health; Kyleen Welling, Chief of Staff, Indiana Housing and Community Development Authority; Joseph Dant, Indiana Housing and Community Development Authority; Andrew Lang, Deputy General Counsel, Indiana Secretary of State; Bill Anthony, Deputy Attorney General; Office of Attorney General; S. Matt Marske, Attorney, Indiana Department of Correction; Mattheus Mitchel, Compliance and Ethics Specialist, Indiana Department of Revenue; Latosha M. Higgins, Managing Attorney/Ethics Officer, Family and Social Services Administration; and, Evan Bartel, Department of Workforce Development.

II. Appointment of Temporary Commission Chair

The Commission Chair, Katherine Noel, was absent for the Commission meeting. Commissioner Todd moved to appoint Commissioner Finnerty as temporary Commission Chair for the March 12, 2020 meeting and Commissioner Sanchez seconded the motion which passed (3-0).

III. Adoption of Amended Agenda and Approval of Minutes

Commissioner Todd moved to adopt the Amended Agenda reflecting that 2019-FAO-019 would be continued to a later meeting as requested by ISP and Commissioner Sanchez seconded the motion which passed (3-0).

Commissioner Sanchez moved to approve the Minutes of the February 13, 2020 Commission Meeting and Commissioner Todd seconded the motion which passed (3-0).

IV. Consideration of Indiana Department of Correction Waiver of Post-Employment Restrictions for Monica Gipson

Randall Koester, Indiana Department of Correction Ethics Officer, presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

Commissioner Sanchez moved to approve the Waiver, and Commissioner Todd seconded the motion which passed (3-0).

V. Consideration of Indiana Housing and Community Development Authority Waiver of Post-Employment Restrictions for Joseph Dant

S. Kyleen Welling, Housing and Community Development Authority Ethics Officer, presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

Commissioner Todd moved to approve the Waiver, and Commissioner Sanchez seconded the motion which passed (3-0).

VI. Request for Formal Advisory Opinion

2020-FAO-005

Trooper Stephen W. Grayson, State Trooper

Major Nila Miller-Cronk, Internal Investigations and Ethics Officer

Indiana State Police

Major Nila Miller-Cronk serves as Commander and Ethics Officer in the Office of Professional Standards for the Indiana State Police (ISP). She is requesting a Formal Advisory Opinion on behalf of Trooper Stephen W. Grayson related to his non-department employment as a political consultant. Trooper Grayson serves in the Enforcement Division at ISP's Lafayette District and patrols roads and performs other trooper responsibilities throughout this district. This district includes eight counties, and Trooper Grayson works the north zone of the district, which includes Tippecanoe, Clinton, White and Carroll counties.

On February 5, 2020, Trooper Grayson submitted a Non-Department Employment (NDE) request through his chain of command. In his request, Trooper Grayson stated that he had created Fairway Consulting, LLC and requested permission to serve as a paid political consultant. The request was forwarded from Lieutenant Colonel Matt Bilkey to Major Miller-Cronk for review as ISP's Ethics Officer.

In his memo accompanying his NDE request, Trooper Grayson provided that over the past couple of years, he has been increasingly active in his community. His activities have involved

community service and volunteer efforts, relationship and goodwill cultivation and local politics. Trooper Grayson recently was asked to provide community insight to local political candidates as it relates to producing social media content, navigating local nuances (knowing the ins and outs of the community and the needs of that community) and providing other community outreach initiatives designed to foster cohesive relationships between the public and political candidates. Trooper Grayson provided he could help educate or connect candidates to experts when they have limited or no knowledge of a certain community or communities within the county in which they are running for office. Trooper Grayson intends to engage in the political process during his off-duty time by providing community insight through Fairway Consulting, LLC. He provided that he set up the LLC so that he could keep his ISP duties and his consulting services separate.

Trooper Grayson intends to provide support to local candidates in their campaigns, specifically in helping them engage with the media and prepare for local speaking engagements. He would assist in setting up meetings with community members, making phone calls and organizing groups to come together for door to door campaigning for the candidate. He also expects to provide other support and assistance in the daily aspects of the campaign.

Trooper Grayson noted that he would receive “modest” compensation for his consulting services to local politicians and community leaders.

The analysis stated the following:

Major Miller-Cronk’s request for a formal advisory opinion invokes consideration of the provisions of the Code pertaining to Political Activity, Conflicts of Interest, Use of State Property, Ghost Employment and Benefitting from and Divulging Confidential Information.

A. Outside Employment/Professional Activity

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 or her official duties that his or her 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 because it views the Ethics Officer 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.

Major Miller-Cronk provided that ISP had some concerns about Trooper Grayson being paid to be a political consultant. Specifically, there is concern about the possibility of Trooper

Grayson being paid to represent a prosecutor or judge in their political campaign and then possibly having to appear before the same prosecutor or judge as part of his official Trooper duties, such as for a traffic ticket or criminal case.

The Commission finds that because Trooper Grayson would be receiving compensation for his work as a political consultant, it is possible that providing these services could create a situation in which he would need to recuse himself from critical ISP duties to avoid a conflict of interests. For instance, such a situation might occur if he were to pull over one of his clients at a traffic stop or if he had to appear before a judge who was paying him to provide political consulting on a moving violation or criminal case.

Accordingly, the Commission cannot approve Trooper Grayson's outside employment as a paid political consultant under IC 4-2-6-5.5(a)(1). Trooper Grayson may continue to engage in this type of activity outside of his duty hours if he is not compensated for it so long as he meets any requirements imposed by ISP and other rules under the Code.

B. Additional Rules

Based upon the Commission's conclusion that IC 4-2-6-5.5 prohibits Trooper Grayson from engaging in this outside employment for compensation, the Commission did not fully analyze the request under the Political Activity, Conflicts of Interest Related to Decisions and Votes, Use of State Property, Ghost Employment and Benefitting from and Divulging Confidential Information rules that would normally apply to an outside employment/political opportunity.

Commissioner Finnerty moved to approve the Commission's findings, and Commissioner Sanchez seconded the motion which passed (3-0).

VII. Director's Report

State Ethics Director, Jen Cooper, stated that since the last Commission meeting, the Office of Inspector General had issued 25 informal advisory opinions on the subjects of post-employment restrictions, conflicts of interests, outside employment, and gifts.

She further advised the deadline for the Annual Financial Disclosure Statement period had passed on February 1, 2020 and that all required filers have submitted their Disclosure Statements.

VIII. Adjournment

Commissioner Todd moved to adjourn the public meeting of the State Ethics Commission and Commissioner Sanchez seconded the motion, which passed (3-0).

The public meeting adjourned at 10:52 a.m.