

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
March 9, 2023**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:01 a.m. Commission members present were Katherine Noel, Chair; Corinne Finnerty; Sue Anne Gilroy; John Krauss; and Rafael Sanchez (via telephone). Office of Inspector General (OIG) staff present included David Cook, Inspector General; Tiffany Mulligan, Chief of Staff and Chief Legal Counsel; Sean Gorman, State Ethics Director; Mark Mader, Staff Attorney; Doreen Clark, Staff Attorney; Mike Lepper, Special Agent; Sam Stearley, Special Agent; and J.J. Fajt, Special Agent.

Others present were Jessica Keyes, Ethics Officer, Family and Social Services Administration; Matheus Mitchell, Compliance and Ethics Specialist, Indiana Department of Revenue; Keith Beesley, General Counsel, Indiana State Personnel Department; Nila Miller-Cronk, Ethics Officer, Indiana State Police; Dr. Rich Hogue, former contract employee, Indiana State Police; Amie Durfee, Deputy General Counsel, Indiana Department of Workforce Development; Chris Serak, Ethics Officer, Indiana Department of Transportation; Erin Elam, Ethics Officer, Indiana Department of Health; Kathy Mills, Ethics Officer, Indiana Department of Environmental Management; and Jillian Battle, Ethics Officer and General Counsel; Indiana Treasurer of State.

II. Adoption of Agenda and Approval of Minutes

Commissioner Krauss moved to adopt the agenda, Commissioner Gilroy seconded the motion, and the Commission passed the agenda via roll call vote (5-0).

Commission Chair Krauss moved to approve the Minutes of the January 12, 2023, Commission Meeting, and Commissioner Gilroy seconded the motion, which passed via roll call vote (3-0). Commissioners Finnerty and Sanchez abstained as they were not present at the January 12, 2023 meeting.

III. Consideration of Waiver of Post-Employment Restrictions for Charlee Beasor Mitchell

Greg Harrell, School and Community Outreach Manager for the Indiana Commission for Higher Education, 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 Krauss seconded the motion, which passed (4-0).

IV. Request for Formal Advisory Opinion

2023-FAO-002

Richard Hogue, Ph.D., Former Professional Services contract employee

Major Nila Miller-Cronk, Ethics Officer

Indiana State Police

Major Nila Miller-Cronk is the Ethics Officer for the Indiana State Police (ISP). She also serves as the Commander of ISP's Internal Investigations Section. Major Miller-Cronk requested a formal advisory opinion on behalf of Richard Hogue, Ph.D., who served as a contractor for ISP from February of 2013 through October of 2022. Dr. Hogue had a one-year contract with ISP that ISP renewed each year until Dr. Hogue resigned in October of 2022.

In his role as a contractor with ISP, Dr. Hogue worked with ISP officers and developed early on threat assessments for schools and then developed a program for unarmed responses for active shooters. In her request for a formal advisory opinion, Major Miller-Cronk provided a copy of Dr. Hogue's contract with ISP. The contract is entitled "Professional Services Contract."

With her request for a formal advisory opinion, Major Miller-Cronk also provided a copy of an informal advisory opinion that Major Miller-Cronk obtained from the Office of Inspector General (OIG) on Dr. Hogue's behalf. In her request for an informal advisory opinion, Major Miller-Cronk asked whether the Code would prohibit Dr. Hogue from creating threat assessments for schools after his retirement. The OIG advised that the Code would not apply to Dr. Hogue because he was not a state employee as defined by the Code.

In her request for a formal advisory opinion, Major Miller-Cronk again writes that Dr. Hogue wants to create threat assessments for schools in his retirement. She asks for a formal advisory opinion on whether it would be a Code violation for him to do so and whether engaging in such activity would require a cooling off period.

The analysis stated the following:

Major Miller-Cronk's request for a formal advisory opinion invokes consideration of the Code's definition of employee and the post-employment rule. The application of each provision to Dr. Hogue is analyzed below.

A. Definition of Employee

IC 4-2-6-1(a)(9) defines an employee as "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 definition of employee further specifies that it includes "an individual who contracts with an agency for personal services." The Code's definition of employee does not include an individual with whom an agency contracts for professional services or services other than personal services.

Dr. Hogue’s contract with ISP specifies that it is for professional services. Based on the information provided with Major Miller-Cronk’s request for a formal advisory opinion, Dr. Hogue’s contract with ISP and the testimony provided to the Commission, Dr. Hogue was party to a contract with ISP for professional services and is not a former state employee. **As such, the Commission finds that Dr. Hogue was not a state employee and is not a former state employee under the Code.**

B. Post-Employment

IC 4-2-6-11 primarily consists of two separate limitations: a “cooling off” period and a “particular matter” restriction. Both provisions apply to a “former state officer, employee, or special state appointee.”

Based on the information provided by Major Miller-Cronk and Dr. Hogue, Dr. Hogue did not serve as a state officer or special state appointee. Furthermore, he is not a former state employee as defined by the Code. **As Dr. Hogue is not a former state officer, employee or special state appointee as defined by the Code, IC 4-2-6-11 does not apply to him. As such, the Commission finds that the Code’s post-employment rule does not apply to him; therefore, the Code does not prohibit or restrict Dr. Hogue’s proposed activities.**

Commissioner Krauss moved to approve the Commission’s findings, and Commissioner Gilroy seconded the motion, which passed via roll call vote (5-0).

V. Consideration of the Final Report

In the Matter of John L. Galipeau
Case Number 2022-02-0030

State Ethics Director Sean Gorman presented the Final Report regarding the Agreed Settlement in the Matter of John L. Galipeau for approval.

Commissioner Krauss moved to approve the Final Report, and Commissioner Gilroy seconded the motion, which passed via roll call vote (5-0). The Final Report was signed by Commissioners present at the meeting. Commission Chair Noel signed on behalf of Commissioner Sanchez with permission.

VI. Ethics Director’s Report

State Ethics Director Sean Gorman welcomed the Commission back after not having a meeting in February. He began his report with an update that the first Ethics Officer Roundtable for 2023 was held in January. The OIG has scheduled four events to provide an opportunity for agency ethics officers to discuss challenges, experiences, and questions in their roles. Director Gorman indicated that although the attendance to the first Roundtable was not very high, there was good discussion by those who participated. The next Ethics Officer Roundtable is scheduled for May 23, 2023.

He continued that the OIG is continuing to monitor relevant legislative items in the General Assembly's first 2023 session. Director Gorman also provided that OIG staff will be monitoring the legislative session for any proposed bills that may impact OIG or SEC concerns. Unfortunately, Senate Bill 36, which was slated to amend a statute to include OIG Special Agent investigators extended benefits should they fall in the line of duty, died in committee.

Director Gorman reported that the annual Financial Disclosure Statement filing period has ended with all required filers submitting a Disclosure as required by statute. OIG Legal Assistant Nathan Baker was credited for coordinating the effort.

Next, Mr. Gorman informed the Commission that the OIG's Annual Report has been completed and published to the OIG website.

Finally, Director Gorman reported that OIG has issued 25 IAOs since the January SEC meeting. The IAOs mostly dealt with Post-Employment, Outside Employment, Conflicts of Interest, Nepotism, and Gifts.

VII. Adjournment

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

The public meeting adjourned at 10:32 a.m.