

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
January 11, 2024**

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 were Katherine Noel, Chair; Corinne Finnerty; John Krauss; Sue Anne Gilroy; and Rafael Sanchez. 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 Mitchell, Director of Investigations; Doreen Clark, Staff Attorney; Mark Mader, Staff Attorney; Hope Blankenberger, Staff Attorney, Mike Lepper, Special Agent; Jason Fajt, Special Agent; Sam Stearley, Special Agent, and Nathan Baker, Legal Assistant.

Others present were Mattheus Mitchell, Compliance and Ethics Specialist, Indiana Department of Revenue; Matthew Gerber, Ethics Officer, Family and Social Services Administration; Jessica Keyes, General Counsel, Family and Social Services Administration; and, Allison Taylor, former employee of the Family and Social Services Administration.

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 (5-0).

Commissioner Gilroy moved to approve the Minutes of the December 14, 2023, Commission Meeting, and Commissioner Krauss seconded the motion, which passed (3-0). Commissioners Noel and Sanchez abstained due to absence from the December meeting.

III. Consideration of Waiver of Post-Employment Restrictions for Allison Taylor

Matthew Gerber, Deputy General Counsel and Ethics Officer for the Family and Social Services Administration (FSSA), and Jessica Keyes, General Counsel for FSSA, 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 Krauss seconded the motion, which passed (5-0).

IV. Consideration of Final Report

In the Matter of Joseph F. Mulinaro
Case Number 2023-03-0109

State Ethics Director Sean Gorman presented the Final Report regarding the Agreed Settlement in the Matter of Joseph Mulinaro for final approval. The Final Report was signed by Commissioners present at the meeting.

V. Ethics Director's Report

State Ethics Director Sean Gorman provided the following to the State Ethics Commission:

Nathan Baker, Legal Assistant at the Office of Inspector General, sent email reminders to the list of approximately 2200 state employees who have been identified as subject to the annual financial disclosure filing requirement under the Code of Ethics. These annual disclosures for calendar year 2022 are due to be filed by February 1, 2023. Mr. Baker is the primary point of contact for this process and coordinates tracking, updating records, and communicating with agencies and identified filers.

Mark Mader, Senior Staff Attorney at the Office of Inspector General, has announced his retirement from employment, effective January 19, 2023. Director Gorman reports that the agency has enjoyed working with him and benefited immensely from his experience in a long, distinguished career in public service. Mr. Mader previously worked as a deputy prosecutor in an Indiana county prosecutor's office, as a deputy attorney general in the Indiana Attorney General's office, as legal counsel at Indiana's Alcohol and Tobacco Commission, and early legal career work at the Kentucky Governor's office. The Office of Inspector General congratulates Mr. Mader on his well-earned retirement.

The Office of Inspector General issued 11 informal advisory opinions since the Commission's previous meeting, regarding circumstances involving post-state employment opportunities, prospective outside employment opportunities, gifts, and nepotism. Director Gorman provides that legal staff at the Office of Inspector General take care to analyze specific circumstances in light of past Commission decisions in previous formal advisory opinions. Staff will often emphasize a recommendation in these informal advisory opinions that the requestor seek the Commission's formal advisory opinion when presented with unique fact patterns, matters that the Commission has not previously weighed in on, or circumstances where the Commission's application of the Code is uncertain.

VI. Adjournment

Commissioner Gilroy moved to adjourn the public meeting of the State Ethics Commission. Commissioner Krauss seconded the motion, which passed (5-0).

The public meeting adjourned at 10:23 a.m.



INDIANA DEPARTMENT OF REVENUE

Eric J. Holcomb, Governor
Bob Grennes, Commissioner

Indiana Government Center
100 N. Senate Ave
Indianapolis, IN 46204-2253

Sent Via Email to sgorman@ig.in.gov and nbaker@ig.in.gov

March 7, 2024

Indiana State Ethics Commission
C/O Mr. Sean Gorman
State Ethics Director
Indiana Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

Re: Request for Formal Advisory Opinion Submitted on Behalf of Indiana Department of Revenue Employee Kumar Patel

Dear Commissioners –

As the Ethics Officer for the Indiana Department of Revenue (“DOR”), I am writing to request a formal advisory opinion on behalf of Mr. Kumar Patel to determine whether he may engage in an outside business venture while simultaneously serving as a DOR employee. In addition to all relevant Indiana Ethics Code rules, Mr. Patel is especially interested in your guidance on the application of the Indiana Ethics Code rules regarding outside employment/professional activity (IC 4-2-6-5.5) and conflicts of interest related to contracts (IC 4-2-6-10.5).

Mr. Patel’s Employment Position with DOR

Mr. Patel is employed by DOR as a “Business System Analyst” in the agency’s Business System Support department - Project Management Office. His essential job duties include the following:

- Assisting in the development of technical standards and policies;
- Recommending and facilitating quality improvement efforts;
- Training, guiding, and advising lower-level Business Analysts;
- Formulating and defining system scopes and objectives through research and fact-finding combined with a basic understanding of user needs and business systems and industry best practices;
- Creating process change through the integration of new processes with existing ones and communication of changes to impacted Business Systems teams;
- Establishing and maintaining strategic partnerships with assigned customers to help them meet their business and technical needs;
- Participating in the development of strategic plans based on customer needs;

- Analyzing business and user needs, document requirements, and devising new technical business system solutions or revising existing system logic difficulties as necessary;
- Developing or modifying moderately complex information or communication systems processes; and
- Facilitating the delivery of technical business solutions and products.

He does not have the authority to enter into contracts on behalf of DOR.

Mr. Patel's Outside Business Opportunity

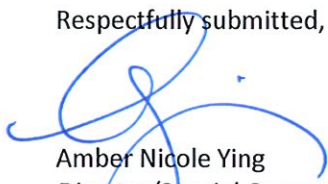
Mr. Patel is interested in starting an outside business that prepares and trains job seekers/candidates for careers in the information technology ("IT") industry and assists them with job placement. His business will serve both college graduates and individuals who have relevant IT experience and are seeking career advancement for transitioning into IT-related fields. This will include working with managed services providers/temporary employment companies. It should be noted that DOR does engage certain managed service providers for its temporary employee needs under state of Indiana quantity purchase agreements.

In operating the business, Mr. Patel does not intend to engage in any business activity with the state of Indiana and all Indiana-based business activity will be restricted to private sector entities. To that end, he will ensure that the business entity itself and all related personnel will avoid placing job seekers/candidates in any employment positions with Indiana state government agencies, soliciting any funds or compensation from Indiana state government agencies and Indiana state government supported programs, and entering into contractual agreements with Indiana state government agencies for financial support.

Mr. Patel and I have discussed the DOR policies and relevant Indiana Ethics Code rules, and the process of implementing a conflict of interest screen and filing a conflict of interest disclosure with the Office of Inspector General should a conflict arise. Additionally, I have obtained an Informal Advisory Opinion on Mr. Patel's behalf from State Ethics Director Mr. Sean Gorman, which I have reviewed with Mr. Patel. Mr. Patel has confirmed he will strictly adhere to all relevant Indiana Ethics Code rules, dedicate his full efforts to his DOR responsibilities during his scheduled working hours, and that his business venture will not compromise the quality of his work with the agency.

Mr. Patel and I will be in attendance at the March 14, 2024 Commission meeting and look forward to answering your questions and providing any additional information you may need to assist you in considering this matter.

Respectfully submitted,



Amber Nicole Ying
Director/Special Counsel of Compliance and Ethics
Agency Ethics Officer
Indiana Department of Revenue
Indiana Government Center North
100 North Senate Avenue, N248
Indianapolis, Indiana 46204
T: 317.233.1851
E: aying@dor.in.gov

From: [Gorman, Sean M](#)
To: [Ying, Amber](#)
Subject: Ethics Informal Advisory Opinion; Ying (DOR Employee); DOR; Moonlighting
Date: Tuesday, March 5, 2024 8:15:12 AM
Attachments: [image001.png](#)
[image002.png](#)

Amber,

Thank you for contacting our office for ethics guidance on behalf of an employee (Employee) at the Indiana Department of Revenue (DOR). We appreciate your service as DOR's ethics officer and welcome the opportunity to provide this informal advisory opinion.

Employee serves within DOR's Business System Support Department. You explain that Employee is interested in starting a business that prepares and trains job seekers for careers in the technology industry and assists them with job placement.

In this proposed business, Employee will not seek to do any type of business with the State of Indiana and will limit their Indiana-based business to the private sector. Employee does not intend to solicit funds or grants from State of Indiana agencies, and he does not plan to enter into contractual agreements with any state agency. You provide that Employee's business would contract with the entity at which a client is placed, whereby Employee's business would receive compensation from the contracted entity and Employee's business would pay its client job-seeker placed with the entity. You further explain that Employee's business will not place any clients with any Indiana state agency.

You also note that DOR utilizes Knowledge Services and Computer Aid Inc for DOR's temporary employee needs; however, it is unclear if Employee's proposed business would potentially place its clients with these managed service providers for possible assignment to DOR or another state agency.

You write that you have reviewed DOR policies and the Code of Ethics (Code) with Employee regarding his proposed business. Employee has confirmed that he will dedicate his full efforts to his DOR responsibilities during his scheduled work hours and that his proposed business venture will not compromise the quality of his DOR work.

You ask for our informal advisory opinion regarding the application of the Code to Employee's proposed outside business venture.

Your inquiry primarily invokes consideration of the following Code rules: IC 4-2-6-5.5, IC 4-2-6-9 and IC 4-2-6-10.5, which are rules that pertain to conflicts of interests; IC 4-2-6-17, the use of state property rule; 42 IAC 1-5-13, the ghost employment rule; and IC 4-2-6-6, 42 IAC 1-5-10 and 42 IAC 1-5-11, the confidentiality rules. We included all relevant rules and definitions at the end of this opinion for your reference.

1. **IC 4-2-6-5.5 – Outside Employment/Professional Activity**

The outside employment/professional activity rule prohibits Employee 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 him/her to recuse himself from matters so central or critical to the performance of his official duties that his/her ability to perform them would be materially impaired;

2. accepting other employment or engaging in professional activity that would require him/her to disclose confidential information that was gained in the course of state employment; or
3. using his/her official position to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals outside state government.

In general, Employee may not engage in other employment or outside professional activity if it triggers any of the above listed matters. Regarding subsection (1), nothing in the information you provided indicates that Employee's proposed business venture would be inherently incompatible with the responsibilities of public office or would require his recusal from matters so central or critical to the performance of his DOR duties that his ability to perform them would be materially impaired.

Regarding subsection (2), nothing in the information you provided indicates that Employee's prospective business would require his disclosure of confidential information obtained through his DOR role; therefore, so long as that is true, Employee's proposed business venture will not violate this subsection.

As to subsection (3), please be sure that Employee is aware that he may not use his official position with DOR to secure unwarranted privileges or exemptions for his outside business, the clients it serves or anyone else that are not available to similarly situated businesses or individuals outside of state government.

We typically recommend that state employees discuss outside employment with their agency's Ethics Officer. **As you have already discussed these proposed activities with Employee, we encourage you to share this guidance with him.**

As you know, only the State Ethics Commission (Commission) can provide a conclusive determination that an outside employment or professional activity is not in conflict with a state employee's official duties. If Employee would like such a statement, please direct him to the instructions for requesting a formal advisory opinion on our website:

<http://www.in.gov/ig/2334.htm>. The next Commission meeting in which Employee can request advice is March 14, 2024, and all requests for a formal advisory opinion are due by March 4, 2024. You can assist Employee with such a request or you can have him contact our office.

2. IC 4-2-6-10.5 – Conflicts of Interests Related to Contracts

Pursuant to IC 4-2-6-10.5, Employee may not knowingly have a financial interest in a contract made by *any* state agency. The Code defines "financial interest" to include an interest arising from employment. The Commission has interpreted this rule to apply when a state employee derives compensation from a contract between a state agency and a third party.

This rule prohibits Employee from accepting compensation from his proposed business venture if such compensation is derived from state funding, such as contracts or grants from

any state agency, unless he can meet the requirements of the rule's exception.

The rule's exception provides that Employee may have a financial interest in a contract made by a state agency so long as he (1) does not participate in or have official contracting responsibility for the contracting agency and (2) files a disclosure form with our office *prior* to the contract's execution between the agency and third party.

You provide that Employee's proposed business will not place its job-seeking clients with any state agency, and it will not do any business with any state agency. It is unclear whether Employee may place clients with a managed service provider operating under a Quantity Purchase Agreement (QPA) with the State, such as Knowledge Services and Computer Aid Inc. If so, and state funds are paid to the managed service provider and compensation that Employee's business receives from the managed service provider is derived from state funds, the Commission may find that this rule is implicated. Further, as State of Indiana QPAs with Knowledge Services and Computer Aid Inc. are already established, he cannot meet the second requirement of this rule's exception if this rule is implicated.

Note that our office does not provide advice on the Indiana criminal code; however, we want to point out that if any portion of Employee's outside compensation is derived from state contracts, this may raise issues under the criminal conflict of interests statute found in IC 35-44.1-1-4. The criminal statute prohibits certain public servants from having a pecuniary interest in or deriving a profit from a contract with the public servant's agency. Please note that in addition to making determinations on the Code, the Commission may also provide approval that an employee does not have a conflict under the criminal statute pursuant to IC 35-44.1-4(c)(5).

Employee should be aware that if his business plans to place clients with any entities operating under contract with the State, such that his business would be compensated through state funds, this statute may be implicated.

For the foregoing reasons, should Employee's proposed business venture plan to do business with State of Indiana contracted managed service providers, we strongly encourage him to seek a formal advisory opinion from the Commission to obtain a final determination on the rule's application in this matter.

3. IC 4-2-6-9 - Conflicts of Interests Related to Decisions and Votes

In addition, Employee should be aware of IC 4-2-6-9, which pertains to conflicts of interests, decisions and voting. This rule prohibits Employee from participating in any decision or vote, or matter related to that decision or vote, if he/she has knowledge that various persons may have a financial interest in the outcome of the matter, including (1) Employee; (2) Employee's immediate family member; (3) a business organization in which Employee is serving as an officer, director, member, trustee, partner or employee, or (4) an organization with whom Employee is negotiating or has an arrangement concerning prospective employment.

The Code defines "financial interest" in IC 4-2-6-1(a)(11) to include "an interest in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or involving property or services." 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. Please note that this prohibition extends beyond merely the decision or vote on the matter to encompass any participation in that decision or vote.

Nothing in the information you provided indicates that Employee is in a position in his DOR role to make any decisions or votes about matters related to his proposed business, the clients his business would represent or the entities his business would work with for client job placement. As such, there does not appear to be an identified potential conflict of interests under this rule.

If Employee were to be involved in DOR decisions on utilizing temporary staff from a managed service provider and his outside business places clients with such entities, potential conflict of interests will likely exist under this rule. Please note that this rule applies not just to decisions and votes but also extends to any participation in matters related to decisions and votes affecting an applicable person's financial interests.

If Employee later identifies a potential conflict of interests, please note that mere recusal from that matter is not enough. The rule requires that he notify both DOR's appointing authority and you as the agency ethics officer, in writing, and either (1) seek a formal advisory opinion from the Commission or (2) file a written disclosure **form** with our office in accordance with IC 4-2-6-9's notification requirements.

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

Employee also should be aware of the Use of State Property and Ghost Employment rules. As you know, any activity related to his prospective business must be done outside of his normal state working hours to avoid violations of the ghost employment rule (42 IAC 1-5-13). Also, he cannot use state property, such as equipment or materials, while performing work for his outside business in order to comply with the use of state property rule (IC 4-2-6-17). Employee should also be aware that he cannot use his state computer, state e-mail account, state phone or state vehicle to work on matters related to outside work, and he cannot engage in any activities related to his business venture while working his state job.

So long as Employee's outside employment activities do not interfere with his normal state working hours, and he does not use state property to conduct this work, Employee will not be in violation of these rules.

5. IC 4-2-6-6, 42 IAC 1-5-10 and 42 IAC 1-5-11- Confidential Information

Finally, Employee should keep in mind the ethics rule pertaining to confidential information found at IC 4-2-6-6. IC 4-2-6-6 prohibits Employee 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 he receives from his business venture does not result from information of a confidential nature that he learned in his position with DOR, Employee's outside activities with his proposed business will not violate IC 4-2-6-6.

42 IAC 1-5-10 and 11 also prohibit Employee from divulging, benefitting from or permitting any other person to benefit from, confidential information learned as a result of his/her position with DOR. To the extent that Employee possesses information of a confidential nature by virtue of his position at DOR that could be used to benefit his proposed business, its clients or any other person, Employee would need to ensure he complies with these rules.

Thank you again for submitting your question to our office. 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 advice and the alleged violation was directly related to the advice rendered. Also, remember that the advice given is based on the facts as we understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to our attention.

Sincerely,
Sean Gorman
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:

...

(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.

...

(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.

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).

IC 4-2-6-10.5 State officers and employees; financial interest in contract made by agency; exceptions

Sec. 10.5. (a) Subject to subsection (b), a state officer, an employee, or a special state appointee may not knowingly have a financial interest in a contract made by an agency.

(b) The prohibition in subsection (a) does not apply to a state officer, an employee, or a special state appointee who:

(1) does not participate in or have contracting responsibility for the contracting agency; and

(2) files a written statement with the inspector general before the state officer, employee, or special state appointee executes the contract with the state agency.

(c) A statement filed under subsection (b)(2) must include the following for each contract:

(1) An affirmation that the state officer, employee, or special state appointee does not participate in or have contracting responsibility for the contracting agency.

(2) An affirmation that the contract:

(A) was made after public notice and, if applicable, through competitive bidding; or

(B) was not subject to notice and bidding requirements and the basis for that conclusion.

(3) A statement making full disclosure of all related financial interests in the contract.

(4) A statement indicating that the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee.

(5) In the case of a contract for professional services, an affirmation by the appointing authority of the contracting agency that no other state officer, employee, or special state appointee of that agency is available to perform those services as part of the regular duties of the state officer, employee, or special state appointee.

A state officer, employee, or special state appointee may file an amended statement upon discovery of additional information required to be reported.

(d) A state officer, employee, or special state appointee who:

(1) fails to file a statement required by rule or this section; or

(2) files a deficient statement;

before the contract start date is, upon a majority vote of the commission, subject to a civil penalty of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

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.

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.

IC 4-2-6-6

Present or former state officers, employees, and special state appointees; compensation resulting from confidential information

Sec. 6. No state officer or employee, former state officer or employee, special state appointee, or former special state appointee shall accept any compensation from any employment, transaction, or investment which was entered into or made as a result of material information of a confidential nature.

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.

Sean Gorman

State Ethics Director

Indiana Office of the Inspector General

315 W. Ohio Street, Room 104

Indianapolis, IN 46202

317-234-4108

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From: Ying, Amber <AYing@dor.IN.gov>
Sent: Tuesday, February 27, 2024 2:43 PM
To: Gorman, Sean M <SGorman@ig.IN.gov>
Subject: RE: Request for Informal Advisory Opinion - Outside Employment; Starting and Managing a Business

Hi, Sean.

Thank you for your email.

I have confirmed that Employee will not seek to do any type of business with the state of Indiana but will limit their Indiana-based business to the private sector.

For completeness, I have provided answers to your questions.

1. Payroll – For payroll purposes, like any staffing agency, Employee’s business will serve as an intermediary between its clients and the entities employing its clients. As an example, Employee’s Business contracts with Entity A. Employee’s Business places Client with Entity A. Entity A pays Employee’s Business for Client’s services. Employee’s Business pays Client.
2. Placement with State Agencies – Employee’s business will not place any clients with or do any business with any Indiana state agencies.

Please let me know if I can provide any additional information.

Amber

Amber Nicole Ying

Director/Special Counsel of Compliance and Ethics

Agency Ethics Officer

Indiana Department of Revenue

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DORIntegrity.Ethix360.com or 844.868.6021



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From: Gorman, Sean M <SGorman@ig.IN.gov>

Sent: Tuesday, February 27, 2024 8:56 AM

To: Ying, Amber <AYing@dor.IN.gov>

Subject: RE: Request for Informal Advisory Opinion - Outside Employment; Starting and Managing a Business

Hi Amber,

I am hoping you could expand on the potential collaboration with state entities for payroll purposes that you mentioned as a possible activity that the employee may conduct in his/her outside business. Would such collaboration potentially result in a financial benefit to employee, and if so, from whom would employee receive compensation?

You also note that DOR utilizes KS and CAI for temporary DOR employees – Is it a possibility that employee's business would be involved in arranging for a client to obtain a temporary position with DOR or any other state agency through these staffing companies? If so, would employee/employee's business be compensated? And if so, what would be the source of that compensation?

Finally, can you explain what you mean by employee's potential collaboration with state entities for payroll services? It might be helpful to provide an example of a state entity and the nature and source of any compensation that employee/employee's business might receive as part of that arrangement.

If it is easier to discuss in a conversation, please do feel free to call me. Thank you for helping provide this clarifying information!

Sean

Sean Gorman

State Ethics Director

Indiana Office of the Inspector General

315 W. Ohio Street, Room 104

Indianapolis, IN 46202

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From: Ying, Amber <AYing@dor.IN.gov>
Sent: Friday, February 23, 2024 3:47 PM
To: Gorman, Sean M <SGorman@ig.IN.gov>
Subject: Request for Informal Advisory Opinion - Outside Employment; Starting and Managing a Business

Greetings, Sean.

I am writing in my official capacity as the Ethics Officer for the Indiana Department of Revenue ("DOR") to request an informal advisory opinion on behalf of a DOR employee (Employee) who would like guidance on the Indiana Ethics Rules governing starting and managing a business while working as a state employee.

Employee works as a "Business System Analyst Intermediate" with the DOR Business System Support department. His essential job functions are as follows:

- Assisting in the development of technical standards and policies;
- Recommending and facilitating quality improvement efforts;
- Training, guiding, and advising lower-level Business Analysts;
- Formulating and defining system scopes and objectives through research and fact-finding combined with a basic understanding of user needs and business systems and industry best practices;
- Creating process change through the integration of new processes with existing ones and communication of changes to impacted Business Systems teams;
- Establishing and maintaining strategic partnerships with assigned customers to help them meet their business and technical needs;
- Participating in the development of strategic plans based on customer needs;
- Analyzing business and user needs, document requirements, and devising new technical business system solutions or revising existing system logic difficulties as necessary;
- Developing or modifying moderately complex information or communication systems processes; and
- Facilitating the delivery of technical business solutions and products.

Employee is interested in starting a business that prepares and trains job seekers for careers in the technology industry and assists them with job placement, which will include working with managed services providers/temporary employment companies. Their business will serve both college graduates and individuals who have relevant experience and are seeking career advancement for transitioning into IT-related fields. In operating the business, Employee does not intend to solicit funds or grants from state agencies or enter into contractual agreements with state agencies for financial support. However, it is conceivable that Employee may engage in collaboration with state entities for payroll purposes, particularly when the business' clients are actively pursuing employment opportunities within the state.

It should be noted that DOR does engage the managed service providers Knowledge

Services and Computer Aid Inc for its temporary employee needs under state of Indiana quantity purchase agreements. This may be of importance in the context of Employee's business placing its clients in IT-related positions.

Employee confirmed they will dedicate their full efforts to their DOR responsibilities during their scheduled working hours and that their business venture will not compromise the quality of their work with the agency. Employee and I have discussed the DOR policies and relevant Indiana Ethics Code rules, implementing a conflict of interest screen, and filing a Conflict of Interest disclosure with your office. However, as we will be seeking a formal advisory opinion from the State Ethics Commission, we would appreciate your guidance.

Please contact me with any questions.

Thanks!

Amber

Amber Nicole Ying

Director/Special Counsel of Compliance and Ethics

Agency Ethics Officer

Indiana Department of Revenue

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Integrity & Ethics Hotline – Confidentially report concerns to:
DORIntegrity.Ethix360.com or 844.868.6021



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STATE OF INDIANA) INDIANA STATE ETHICS COMMISSION
) SS:
COUNTY OF MARION) CASE NO: 2023-08-0276

IN RE LORETTA LEWIS,
 Respondent.

AGREED SETTLEMENT

1. Respondent admits to the facts as alleged in the complaint filed herein by the Inspector General and admits to a violation of Ind. Code § 4-2-6-11(b)(3), the Indiana Code of Ethics' post employment rule's cooling off provision. (See Ethics Complaint filed on the 19th day of January 2024, attached hereto as Exhibit A.)
2. Respondent agrees to pay a fine in the amount of ten thousand dollars (\$10,000). The State Ethics Commission (Commission) will not impose any further penalties under Ind. Code § 4-2-6-12. Respondent shall make payment to the "Indiana State Ethics Commission" in the amount of ten thousand dollars (\$10,000) within five (5) months from the date that the Commission accepts this agreement. Respondent shall make monthly payments of at least two thousand dollars (\$2,000) a month due by the first of each month until the Respondent pays the fine in full.
3. The parties acknowledge that this agreement reflects the entire agreement between the parties, that approval of these terms by the Commission shall result in the final disposition of this proceeding, and that Respondent is waiving an alternative statutory right to a public hearing as provided in Ind. Code § 4-2-6-4 to contest the complaint.

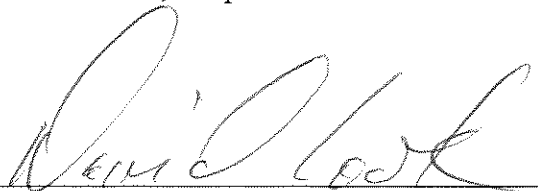
Dated this ____ of 02/02, 2024.



Hope Blankenberger
Associate Attorney
Office of the Inspector General

Loretta Lewis

Loretta Lewis, Respondent



David Cook, Inspector General

Approved this ____ day of _____, 2024, by the State Ethics Commission in a public meeting by a vote of ____ to ____.

State Ethics Commission Chair