

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
November 14, 2019**

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 Katherine Noel, Chairperson; Corinne Finnerty; Sue Anne Gilroy; and Kenneth G. Todd. Staff present included Jennifer Cooper, State Ethics Director; Lori Torres, Inspector General; Kelly Elliott, Staff Attorney; Tiffany Mulligan, Chief Legal Counsel; and Nathan Baker, Legal Assistant, Office of Inspector General.

Others present were Andrew Bernlohr, General Counsel, Indiana Department of Education; Dr. Andrew Melin, Chief Innovation Officer, Indiana Department of Education; Kathy Mills, Ethics Officer, Indiana Department of Environmental Management; Mattheus Mitchel, Compliance and Ethics Specialist, Indiana Department of Revenue; Amber Nicole Ying, Special Counsel – Compliance and Ethics, Indiana Department of Revenue; Tammera Glickman, Deputy General Counsel, Indiana Department of Administration; Beth Green, General Counsel, Indiana Department of Workforce Development; and Bill Anthony, Deputy Attorney General, Office of Attorney General.

II. Adoption of Agenda and Approval of Minutes

Commissioner Gilroy moved to adopt the Agenda and Commissioner Todd seconded the motion which passed (4-0).

Commissioner Todd moved to approve the Minutes of the October 10, 2019 Commission Meeting with some minor amendments regarding 2019-FAO-019 and Commissioner Finnerty seconded the motion which passed (4-0).

III. Consideration of Indiana Department of Education Waiver of Post-Employment Restrictions for Sarah Larrison

Andrew Bernlohr, Indiana Department of Education General Counsel and Ethics Officer, 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. Consideration of Indiana Department of Education Waiver of Post-Employment Restrictions for Andrew Melin

Andrew Bernlohr, Indiana Department of Education General Counsel and Ethics Officer, presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

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

V. Director's Report

State Ethics Director, Jen Cooper, stated that since the last Commission meeting, the Office of Inspector General had issued 43 informal advisory opinions on the subjects of post-employment restrictions, conflicts of interests, outside employment, and gifts. The increase in issued informal advisory opinions is likely due to the launch of the State Ethics Training in October.

She further advised that the Legal and Ethics Conference was set for November 14, 2019 and invited the Commissioners to attend. The Conference was approved for three credit hours for Continuing Learning Education and Ethics Education.

Finally, Director Cooper advised that the State Ethics Training cycle was set to conclude on November 21, 2019.

VI. Adjournment

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

The public meeting adjourned at 10:19 a.m.

Indiana Ethics Commission

Formal Advisory Opinion Request

Oct 20, 2019

I am requesting a formal advisory opinion request as it relates to post-employment, as a follow-up from an informal opinion previously requested.

I worked at the Indiana State Department of Health from January 2013 until September 27, 2019. From approximately March 2019 until September 2019 I served as the Director of the Emergency Preparedness Division. I have attached the job description of that position, as posted on the Indiana job bank.

I am seeking an opinion on my ability to generally seek employment from any Indiana local health department or healthcare coalition as I am now separated from the ISDH.

The Division of Emergency Preparedness provides sub-recipient agreements to 93 Local Health Departments and 10 Healthcare Coalitions in the state. These agreements are funded from cooperative agreements made from the Centers for Disease Control and Prevention (CDC) and the Assistant Secretary for Preparedness and Response (ASPR) respectively.

The sub-recipient program with local health departments and healthcare coalitions are both administered by the District and Local Readiness Director, a subordinate position to the Division Director. While I was the Division Director, I supervised Megan Lytle in this role of District and Local Readiness Director. Megan, and her staff, are the primary administrators of these 93 and 10 sub-recipient agreements.

The Local Health Department agreements, are non-competitive, no application, and were for a level amount to each department. Approximately 80+ of 93 departments entered into agreement for the July 1, 2019 to June 30, 2020 period. An additional funding, called the Cities Readiness Initiative, provides extra funding for 26 specifically identified (by CDC) local health departments. This additional funding is also non-competitive, and based on a mathematical formula of a base + population. This approach for funding, was originally implemented several years ago to model after the way the CDC allocated these same funds to states.

The Healthcare Coalition agreements, are also non-competitive, no application, and utilized a mathematical formula of base + population, again utilized to model after the way the ASPR allocates these funds to the states.

The agreements themselves, for both local health departments and healthcare coalitions, had specific deliverables and scope of work that were developed by Megan and her staff based on the current cooperative agreement from the CDC and ASPR that provides the direction and requirements for the overall award.

As the Director, my main role and relationship to these contracts was to act as the supervisor for Megan Lytle, to include the signing off of Request for Contracts – a procedural step for ISDH Finance to electronically create contract agreements which requires Program Administrator, Division Director,

Assistant Commissioner, and Chief of Staff sign off. My role did not include the negotiation or administration of any of these specific contracts.

Should I obtain employment at a local health department or healthcare coalition, I will not be in any position serving as a lobbyist. I have no confidential information relevant to this matter or application. I was never in a position that made any regulatory or licensing decisions. I further did not substantially participate in any of the twelve matters listed as it applies to my former position at ISDH with the local health departments or healthcare coalitions. [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]

Thank you for your review,

James W. Brewer

A handwritten signature in cursive script, appearing to read "Jim Brewer".

10/20/19

Director, Emergency Preparedness Division

Date Posted: Sep 30, 2019

Requisition ID: 24724

Location:

Indianapolis, IN, US, 46204

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Grow your career with the State of Indiana! With more than 50 executive branch agencies, the State of Indiana is a diverse workforce offering employees stimulating and challenging projects across a broad scope of career opportunities. As a State of Indiana employee, you impact the well-being of Indiana's communities every day.

About the Division of Emergency Preparedness

The Division of Emergency Preparedness is part of the Public Health Protection & Laboratory Commission at the Indiana State Department of Health. This mission of this division is to mitigate the loss of life, the Division of Emergency Preparedness assists Public Health entities, Healthcare Providers, and Hoosiers to respond to and recover from all hazard incidents by identifying, developing, refining, and executing plans in a timely manner.

Salary for this position may be commensurate with education and job experience.

About The Job:

The purpose of this position is to lead and direct the Indiana State Department of Health's Division of Emergency Preparedness. This position oversees the organization, development, planning, and execution of efforts to fulfill its role as lead entity for health and medical emergency preparedness and response for the State of Indiana. Oversees the application for and execution of federal grants related to all hazard health and medical emergency preparedness.

A day In The Life:

- Coordinates short and long terms goals of ISDH divisions related to all-hazard planning and program implementation
- Supervises individuals assigned to the ISDH Public Health Emergency Preparedness Response Division and District Personnel

- Provide strategic direction in the development of plans and procedures for ISDH portions of State Comprehensive Emergency Management Plan, State Pandemic Response Plan, Indiana Strategic National Stockpile Operations Plan, and other all hazard emergency response plans.
- Ensures ISDH all-hazards response planning efforts are integrated with other State agencies, local government agencies, and federal agencies
- Principle investigation of the Federal HHS Hospital Preparedness Grant Program and CDC Public Health Emergency Preparedness Program
- Organizes Division, sets standards for quality and quantity for subordinate staff to follow

What We're Looking For:

- Prefer candidate with higher education in Public Health, Public Safety or related field and
- A minimum of five (5) years of experience in emergency management, preparedness, and/or response.
- Supervisory experience is strongly preferred.

What You Need For Success:

- Extensive knowledge of the principles, theory, and applications that guide emergency management and public health and medical emergency preparedness and response
- Extensive knowledge of and ability to apply State and federal laws, regulation, standards, guidelines, and policies.
- Extensive knowledge of administration.
- Broad knowledge of various agency programs.
- Broad communication skills, both verbal and written.
- Extensive knowledge of budget principles.
- Ability to communicate with health care professionals, state and local officials, public health officials, the media, and lay individuals verbally and in writing in individual or group sessions.
- Ability to coordinate and maintain effective working relationships with various internal and external customers and stakeholders.
- Ability to develop and implement new principles and policies and discern any reaching implications.

Supervisory Responsibilities/Direct Reports:

This role provides direct supervision for one or more staff members.

Benefits of Employment with the State of Indiana:

The State of Indiana offers a comprehensive benefit package for full-time employees which includes:

- Four (4) medical plan options (including RX coverage) and vision/dental coverages
- Wellness program (offers eligibility into a discounted medical plan)
- Health savings account (includes bi-weekly state contribution)
- Deferred compensation account (similar to 401k plan) with employer match
- Two (2) fully-funded pension plan options
- Group life insurance
- Employee assistance program that allows for covered behavioral health visits
- Paid vacation, personal and sick time off
- Competitive leave policies covering a variety of employee needs
- 12 company paid holidays, 14 on election years
- Qualified employer for the Public Service Loan Forgiveness Program
- New Parent Leave

Equal Employment Opportunity:

The State of Indiana is an Equal Opportunity Employer



Eric Holcomb, Governor
State of Indiana

Office of General Counsel
402 W. WASHINGTON STREET, ROOM W451, MS27
INDIANAPOLIS, IN 46204-2744

December 2, 2019

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

RE: Request for Formal Advisory Opinion for Megan Rhea

Dear Chair Noel and members of the Ethics Commission:

The Indiana Family and Social Services Administration (“FSSA”), on behalf of Megan Rhea, requests a Formal Advisory Opinion from the State Ethics Commission regarding conflicts of interest and post-employment restrictions for Ms. Rhea. Ms. Rhea and I respectfully request to come before the Ethics Commission at its next meeting on December 12, 2019.

Ms. Rhea is a former state employee who has held a variety of positions with FSSA. She started with FSSA as a Human Services Consultant in 2013, then transitioned to a Program Director in 2017. In 2018, she transitioned to the role of a Financial Analyst. Ms. Rhea ended her employment with FSSA on June 26, 2019. She is currently employed as a Volunteer Manager at Outreach Indiana, an organization that assists homeless youth.

Ms. Rhea is interested in pursuing a temporary part-time contract position with The Consultant Consortium, Inc. (TCC), an FSSA contractor. In the position with TCC, Ms. Rhea would provide training to TCC employees on how to input data into TCC’s software systems. She would work two hours a week for five days to provide such training for a total of 10 hours. Although Ms. Rhea would be teaching the TCC employees how to use software she used while employed by FSSA, she would not be required to work on any matters that she worked on while with the FSSA.

TCC is a software solutions company that currently has two contracts with FSSA. The company is an Indiana company that provides information technology consulting services nationwide.

During her employment with FSSA, Ms. Rhea was responsible for performing the administrative function of preparing and submitting the request for contract preparation (RCP) for the TCC



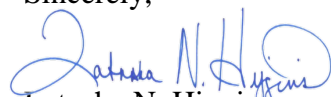
contracts to the FSSA contracting team. This included incorporating information she received from FSSA's Division of Family Resources, Bureau of Childcare Operations Director regarding the terms of the contract negotiated and approved by the Bureau. Ms. Rhea was responsible for creating RCPs once a contract's specifics such as the rate, term, line items, scope of work, etc. were negotiated and approved by the FSSA's Division of Family Resources, Bureau of Childcare. Ms. Rhea was not involved in the contract negotiation. Rather, she would make sure that the content of the RCP matched the budget and dates that had previously been approved by the Bureau Director before she sent the RCP to the FSSA contracting team to begin the process of creating the contract. If in completing the RCP, Ms. Rhea noticed a discrepancy, she would notify the Operations Director of her findings and the Operations Director and Bureau Director would decide the appropriate course of action. If there were any changes to the RCP or contract documents, the Operations Director and Bureau Director made those decisions. In completing the RCP, Ms. Rhea would occasionally contact TCC to relay information. Once she completed the RCP, the Operations Director reviewed the RCP and documentation before Ms. Rhea sent the form and any additional information to the contracting team.

Ms. Rhea recalls that in or around 2016-2017, she worked with two or three colleagues to review claims submitted by TCC on two or three occasions. Such reviews included: (1) requesting information to conduct an initial desk review; (2) reviewing at least ten claims submitted by TCC; and (3) conducting an on-site review at TCC's place of business. During the onsite review, she would ensure that TCC was maintaining and exchanging documentation securely. She also reviewed the documentation to see if TCC was submitting claims in accordance with the contract terms. She would collect the data and submit it to the Operations Director who would review the data and issue a letter either requesting clarification and/or additional information or noting the completion of the review. Ms. Rhea did not make any licensing or regulatory decisions regarding TCC. Ms. Rhea performed these tasks until she transitioned to the role of a Financial Analyst in 2018. As a Financial Analyst she was no longer responsible for preparing RCPs for the Bureau.

Ms. Rhea knows and understands that Indiana's ethics laws will continue to apply to her as a private sector employee. She understands and agrees not to divulge confidential information of FSSA during his post-employment endeavors. Furthermore, Ms. Rhea understands and agrees to abide by the one-year restriction regarding registering as an executive branch lobbyist.

We appreciate the Ethics Commission's consideration regarding this matter.

Sincerely,



Latosha N. Higgins

Managing Attorney and Ethics Officer



**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 Erika Young in her post-employment discussions with the Indiana Coalition Against Domestic Violence (ICADV). Erika's last day with the IHCDA is December 4, 2019. She is resigning to pursue other opportunities.

I understand that 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
(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):



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Suzanne Crouch



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:

Erika served as a Grants Analyst overseeing the day to day administration of approximately 30 federal sub-awards, including sub-awards to the ICADV. In her role she provided technical assistance, answered questions from sub-grantees, spot checks claims for reimbursement and provided general guidance on allowable costs and activities, etc. She also is responsible for monitoring and closeouts.

Grants Analysts are supervised by a department manager and department director who are responsible for overall decision and policy making for the programs under their responsibility. The Grants Analyst role makes recommendations on policy but does not directly set policy, rules or award contracts. This particular funding source is actually reviewed by an advisory body who makes recommendations for funding that are ultimately reviewed and approved for awards by the United States Department of Housing and Urban Development (HUD). IHCDAs administer the application process, but does not have the final decision making authority on each project.

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

Erika is applying for a position to help administer the sub-awards from IHCDAs to ICADV. These are federal dollars from HUD and will ultimately be sub-granted further to local agencies who will provide rental assistance to their clients. ICADV will keep a portion of the federal funds as administrative dollars to oversee the program.

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:

The prospective employment will involve substantial contact with IHCDAs as we are ultimately responsible for the oversight of the funds. The program is a federal program, so it is highly regulated at the federal level and all programmatic elements are agreed to before the project starts by the sub-recipient, IHCDAs and HUD. There is limited discretion overall due to the restrictive nature of the program. Dollars are to be spent on rental assistance and a few administrative type activities. Projects are reviewed periodically for compliance and are monitored at project end for closeout.

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:

It may ultimately be beneficial to the state and public for Erika to move to ICADV and administer the project. This particular sub-award is new, ICADV is a first time recipient of the HUD funding IHCDA administers. ICADV does not have significant experience working with HUD dollars nor familiarity with the policies and programmatic rules involved with administering this funding source.

HUD programs can be cumbersome to administer and require significant record keeping and familiarity with rules and regulations specific to each funding source. Erika is very familiar not only with the HUD funding for the project, but has a significant background in administration of state and federal programs both from her time with IHCDA and the Indiana State Department of Health. We believe she would be a good asset to ICADV and the state generally in this potential new role.


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

There is no immediate economic hardship to the employee.

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

12.3.19

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

12/3/19

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

Upon receipt you will be contacted



December 6, 2019

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

Dear Ms. Noel,

As the Executive Director of the Indiana Housing and Community Development Authority (IHCDA), I am writing to you to express my support and approval of the IHCDA waiver of post-employment restrictions for Erika Young as she seeks employment opportunities with the Indiana Coalition Against Domestic Violence (ICADV).

I regret that I am unable to attend in person to present the waiver and my support for Erika in her future endeavors. Unfortunately, I have scheduling conflicts outside of the Indianapolis area that day. However, I have asked IHCDA's Chief of Staff and Chief Operating Officer, Kyleen Welling, who also acts as our Ethics Officer, to attend the Commission meeting on my behalf. I understand that I.C. 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 December meeting.

I fully support and approve this waiver for Erika Young, as her employment with ICADV would support victims of domestic violence in finding housing and needed services to stabilize them and their families. Erika is being considered as a candidate to administer a newly awarded federal grant to ICADV, and her experience and background as well as her passion to serve others make her a wonderful candidate for this role. This role would truly



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be a benefit to our state, as the successful administration of such federal funds is very important. These funds help stabilize families and communities and good stewardship of these funds will hopefully lead to continued or much needed additional funding to serve this population.

Thank you for consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Sipe', with a stylized flourish at the end.

J. Jacob Sipe
Executive Director

Cc: Indiana Office of Inspector General