

The background features the Indiana State Seal, which includes a central torch, a sunburst, and the word "INDIANA" at the top. The seal is rendered in a light yellow color against a darker yellow background. The text "State Ethics Commission" is centered over the seal in a large, white, sans-serif font.

State Ethics Commission

BEST PRACTICES

Presented by Jim Clevenger, Chair
State Ethics Commission



Introduction

STATE ETHICS COMMISSION

Current Members:

- James Clevenger, Chair: 2004-present
(pending re-appointment)
- Priscilla Keith: 2004 – present
(term expires 2019)
- Robert Jamison: 2009-November 2017
(retiring at end of term)
- Daryl Yost: 2010-November 2017
(retiring at end of term)

PURPOSE

The State Ethics Commission was established under IC § 4-2-6

The State Ethics Commission:

- consists of 5 members appointed by the Governor
- serves as the adjudicating body on complaints brought by Inspector General
- issues Formal Advisory Opinions
- approves post-employment waivers
- approves policies on use of state resources

Relationship with Inspector General

- Inspector General brings complaints to Commission

- Inspector General educates about Code of Ethics

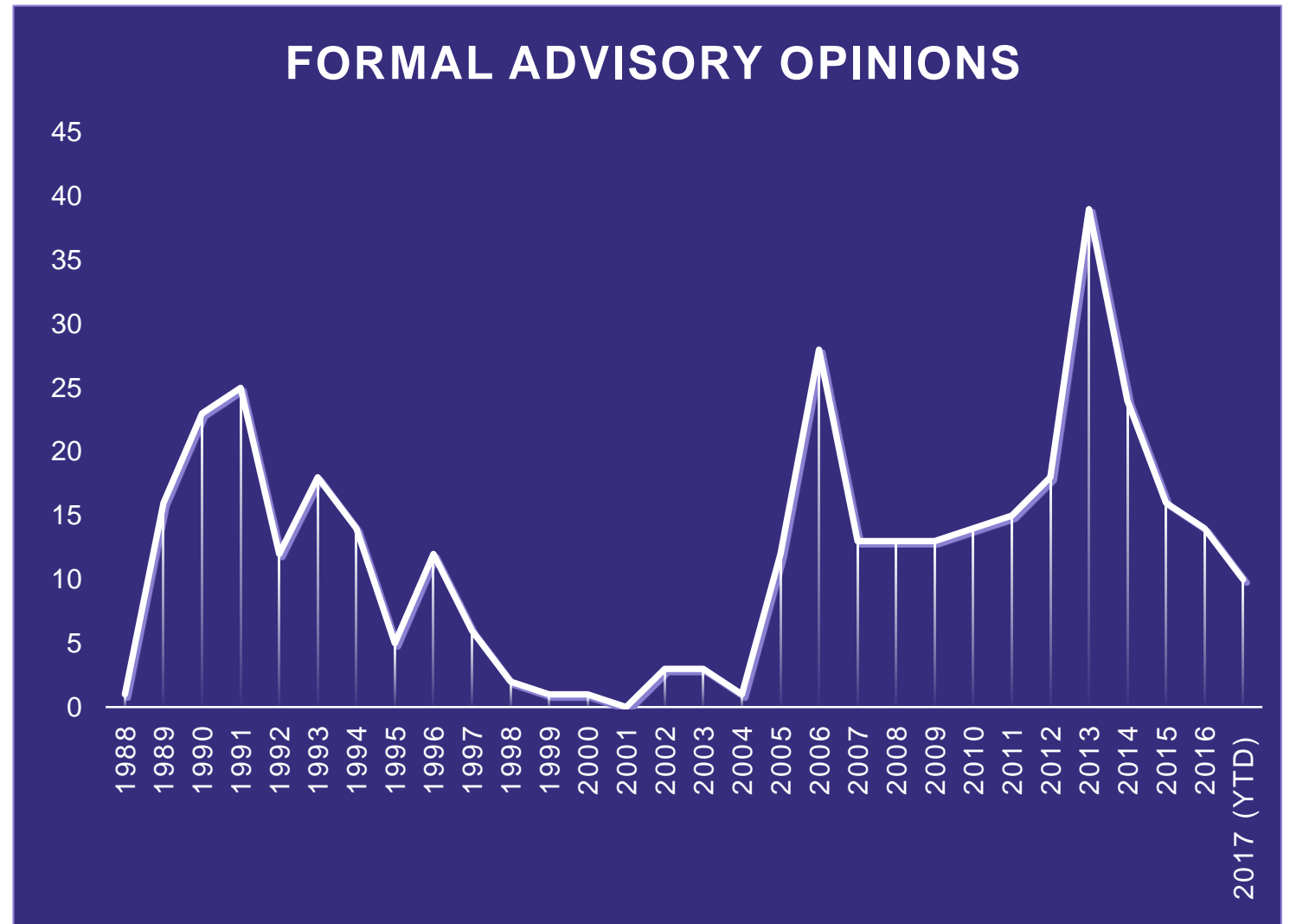
- Inspector General's Office provides informal advisory opinions that are based on Formal Advisory Opinions

- Commission serves as ALJ and rules on complaints

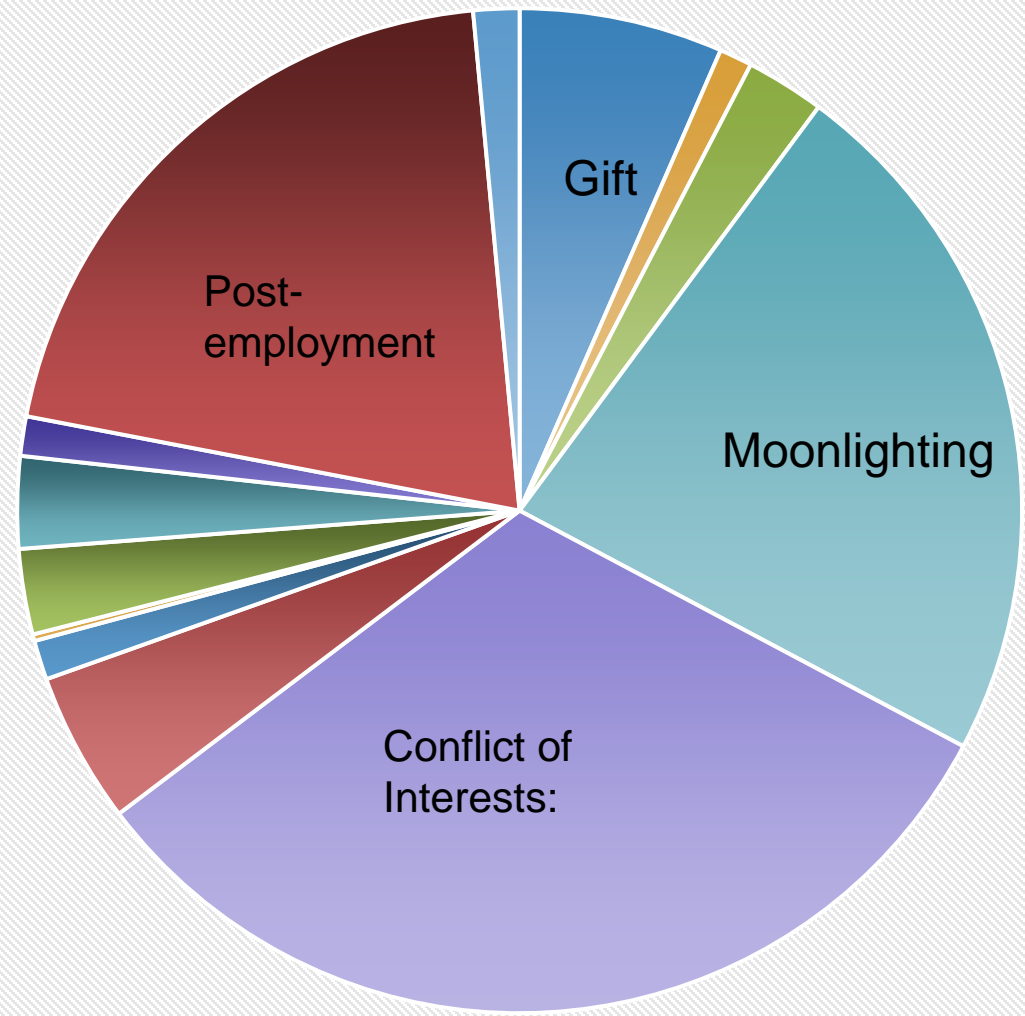
- Commission has the ultimate authority to interpret the Code of Ethics

- Commission issues formal advisory opinions, the final determination on a matter

Number of Formal Advisory Opinions issued on the Code of Ethics since 1988 is **372**



Code of Ethics



- Gifts and Donor restrictions
- Honoraria
- Political activity
- Moonlighting
- COI: D&V
- COI: Contracts
- Additional Comp
- Bribery
- Confid. Info
- Use of State Property
- Ghost employment
- Post-employment
- Nepotism



THE CODE OF ETHICS

Code
of Ethic

Code
of Ethic

Code
of Ethic

Code
of Ethic

Code of Ethics

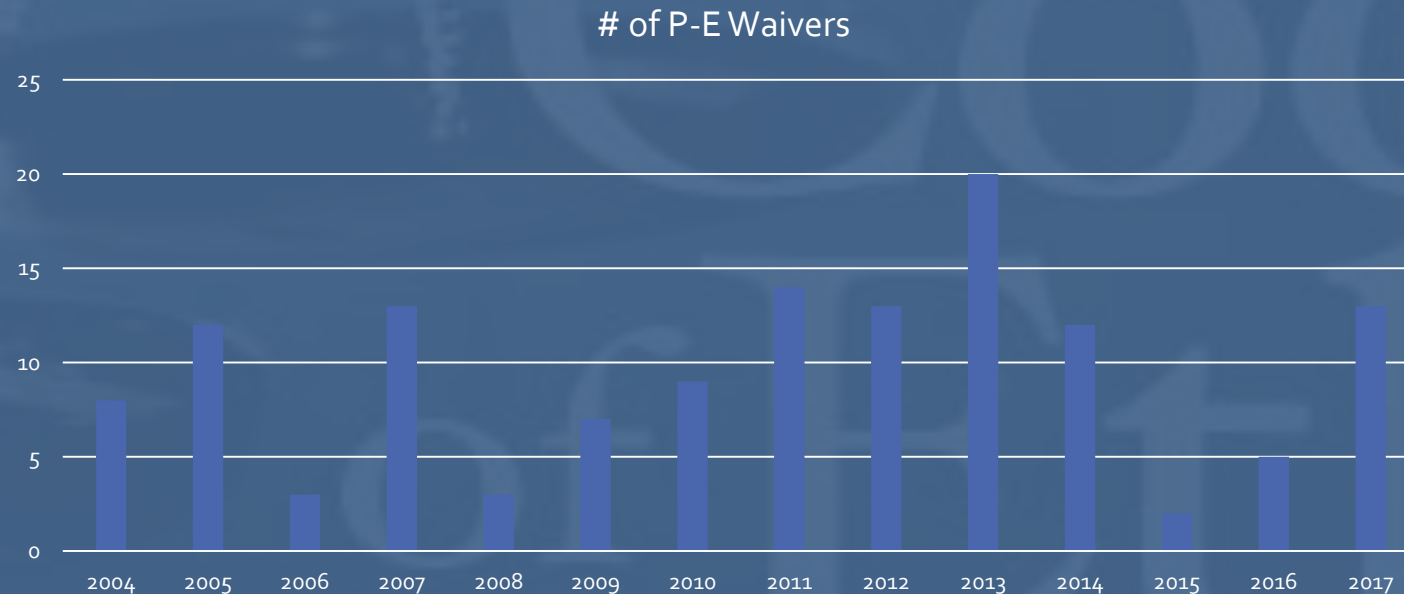
- The rule on Conflict of Interests: Decisions and Votes is most popular rule in terms of the number of times it has been analyzed in Formal Advisory Opinions
- 2015 – amendment to IC 4-2-6-9 went into effect; made it possible to file a disclosure form for identified potential conflicts of interests under this rule
- Before amendment, whenever potential conflict was identified the individual had to seek a formal advisory opinion
- This could account for the drop in Formal Advisory Opinions since 2014

THE CODE OF ETHICS

- 2015 – Post-employment statute (IC 4-2-6-11) amended to require all post-employment waivers be presented to and approved by the Commission
- Prior to July 1, 2015, these waivers were simply filed by appointing authorities
 - Not posted on website, public likely unaware of the majority of these
 - New process is more involved, but more transparent

THE CODE OF ETHICS

- Since 2004, peak year for waivers was 2013
- Since 2015 when Commission approval requirement took effect, waivers have dropped, but are back on the rise in 2017

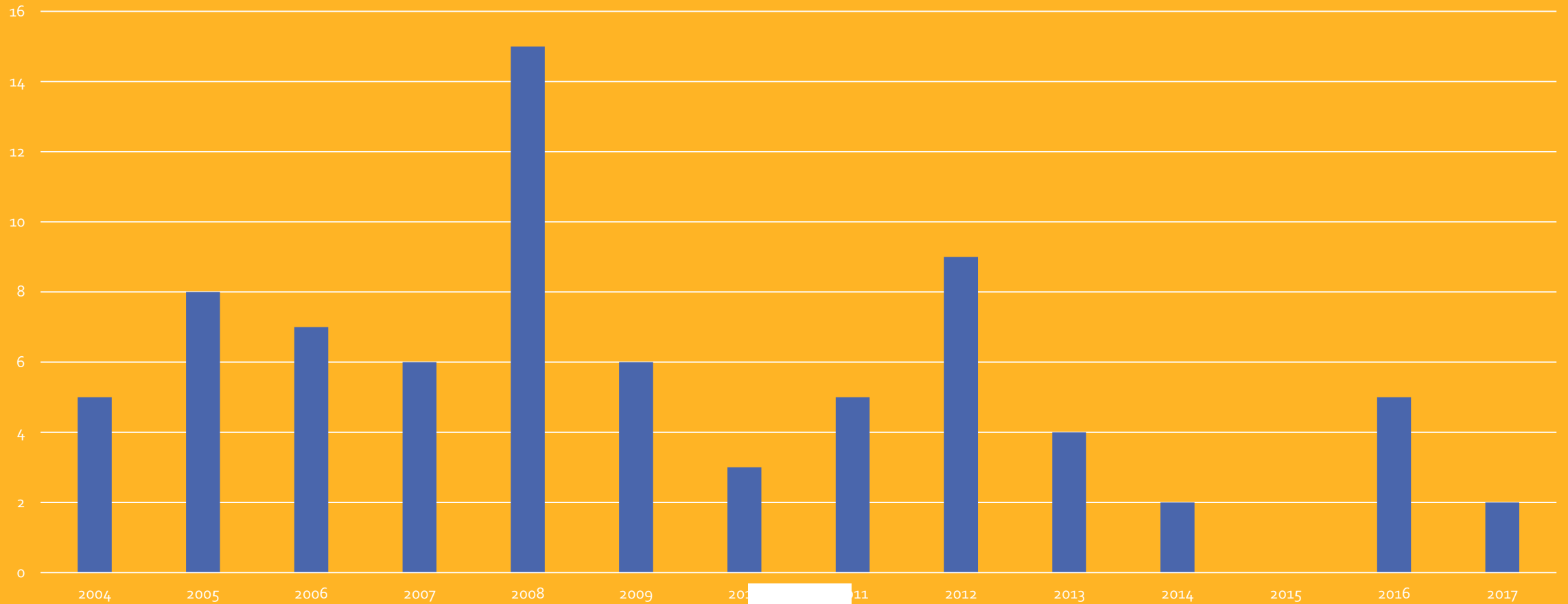




CASES BEFORE THE COMMISSION

Cases Before the Commission

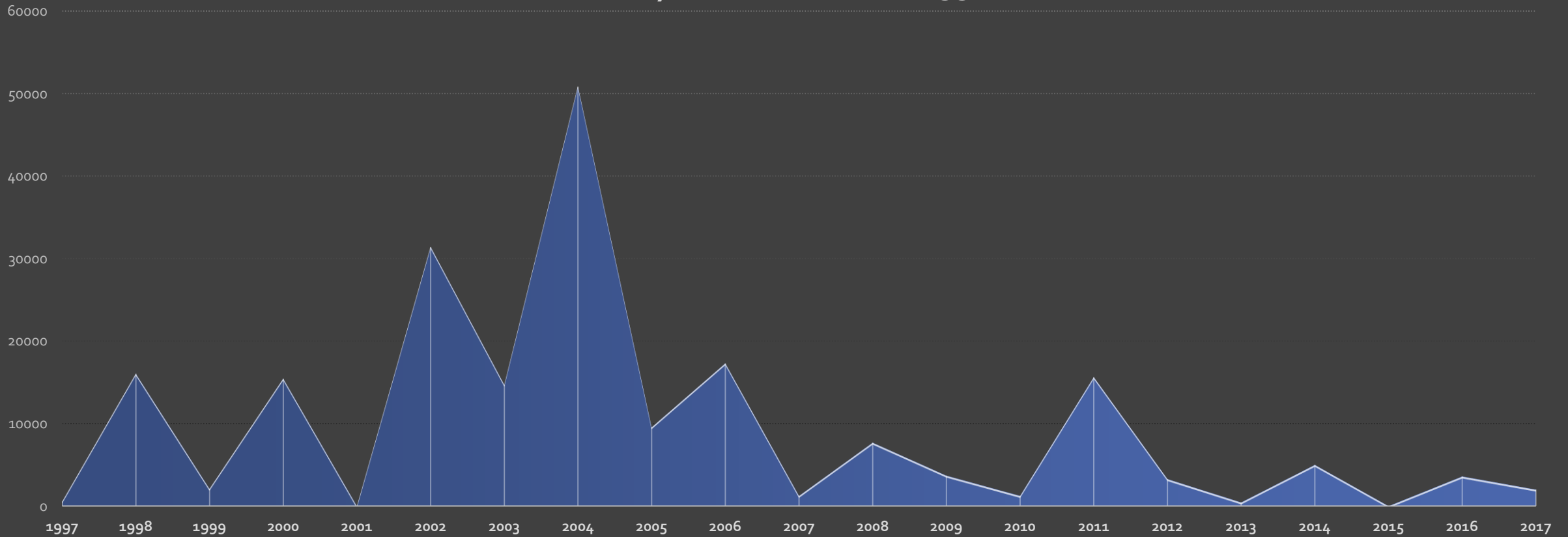
Total # of cases before the SEC



13

FINES

Fines issued by Commission since 1997





BEST PRACTICES

POST EMPLOYMENT WAIVERS

- Effective July 1, 2015, all post-employment waivers must be presented to the State Ethics Commission for approval
- This is an administrative review
- SEC is not approving whether waiver should have been provided to the employee
- SEC is approving the waiver if they are satisfied that the information provided in the waiver is “specifically and satisfactorily articulated”

POST EMPLOYMENT WAIVERS

- Requirements for this presentation and approval process are found in IC 4-2-6-11(g):
 - Must be signed by the employee's Appointing Authority
 - Must include specific information on
 - (a) employee's prior job duties with the state agency;
 - (b) prospective duties with new employer;
 - (c) expected contact with the former state agency;
 - (d) how this prospective employment is beneficial to the State (consistent with public interest); and
 - (e) any economic hardship that the employee would face if the waiver was not granted

POST EMPLOYMENT WAIVERS

- Requirements for this presentation and approval process are found in IC 4-2-6-11(g):
 - Must be filed with the Commission and presented to the Commission by the Appointing Authority granting the waiver
 - Must be limited to an employee or a special state appointee who obtains the waiver before they begin employment that would otherwise violate the post-employment rule
 - The Commission conducts an administrative review and may approve the waiver only if they are satisfied that all of the statutorily required information is included and is “specifically and satisfactorily” articulated

POST EMPLOYMENT WAIVERS

▣ Frequently Asked Questions:

- ▣ Why is it important that agency head attend if at all possible?
- ▣ What should the Ethics Officer do if the agency head/Appointing Authority is not going to be able to be present at the SEC meeting at which waiver is being presented?
- ▣ Does the waiver have to be presented for a specific opportunity or can an employee be granted a “blank” waiver?
- ▣ Does the waiver need to be presented/approved before the employee starts their new position?

POST EMPLOYMENT WAIVERS

Process:

- Ensure Appointing Authority can attend or obtain prior approval from Commission for another delegated individual to present on their behalf
- Present waiver for an employee who has identified a specific position that will trigger the post-employment restrictions
- Present waivers for application of the cooling off period and any particular matters before employee accepts position and/or starts working on those matters

POST EMPLOYMENT WAIVERS

Form:

- Use the OIG's post-employment waiver template available on the OIG website to ensure that all required information has been provided
- Consult with State Ethics Director prior to making the final submission of the agenda to ensure that all requirements are met

POST EMPLOYMENT WAIVERS

Do NOT:

- Present a waiver for an employee who has already started working for new employer and/or on matters that would trigger the post-employment restrictions
- Present a waiver without agency head or their designee present
- Submit a waiver in which all of the sections required by statute are not completed
- Present a “blank” waiver to cover a number of potential opportunities
- Feel pressured by employee to grant the waiver

OIG Template

POST-EMPLOYMENT WAIVER

An agency's Appointing Authority can waive application of certain post-employment restrictions, found under IC 4-2-6-11, when consistent with the public interest. The appointing authority must submit a completed waiver form to the Office of Inspector General for inclusion on the agenda for an upcoming State Ethics Commission (Commission) meeting. The waiver must be presented to the Commission by the Appointing Authority and the Commission will vote to approve the waiver at the meeting.

On-line post-employment waivers are not available at this time. The agency's Ethics Officer/Appointing Authority should mail the original (315 West Ohio Street, Room 104, Indianapolis, IN 46202), or email a scanned copy of the post-employment waiver they wish to file to info@ig.in.gov.

Post-employment waiver form: [Example of a Post-employment Waiver](#)


- Directions for filing and a template are available on the OIG website:
<http://in.gov/ig/2831.htm>
- Using this template will ensure you meet all of the requirements (provided all sections are fully completed)

OIG Template

- Good waiver/presentation
 - All sections completed with detailed information
 - Ethics Officer takes the lead and introduces the waiver and the reasons the agency is granting it
 - Employee explains new position and reason they have to leave state government
 - Appointing authority is present and confirms everything the Ethics Officer and employee have provided

INDIANA
STATE ETHICS COMMISSION

SEP 14 2017



STATE OF INDIANA
ERIC J. HOLCOMB, GOVERNOR

FILED

Indiana Department of Insurance
Stephen W. Robertson, Commissioner
311 W. Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317-232-2385
Fax: 317-232-5251
Website: in.gov/idoi

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

As the Appointing Authority of the Indiana Department of Insurance ("Department"), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Tina Korty in her post-employment with Indiana University Health ("IU Health").

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):

Based on discussions with Tina's potential employer, there are currently no particular matters that she would be dealing with in her new position. Tina and her potential employer have indicated that they would request a particular matter waiver if such an issue arises.

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

ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

AGENCY SERVICES 317-232-2413 COMPANY COMPLIANCE 317-232-3459 CONSUMER SERVICES 317-232-2395/1-800-623-6661 FINANCIAL SERVICES 317-232-3390 MEDICAL MALPRACTICE 317-232-2403 COMPANY RECORDS 317-232-6502 STATE HEALTH INSURANCE PROGRAM 1-800-452-6800

FORMAL ADVISORY OPINIONS

Process:

- Mechanism for SEC to provide interpretations of ethics rules and final and public determination on a question/issue
- Provided at public meeting
- Requests must be in writing and submitted at least 10 days prior to next meeting date

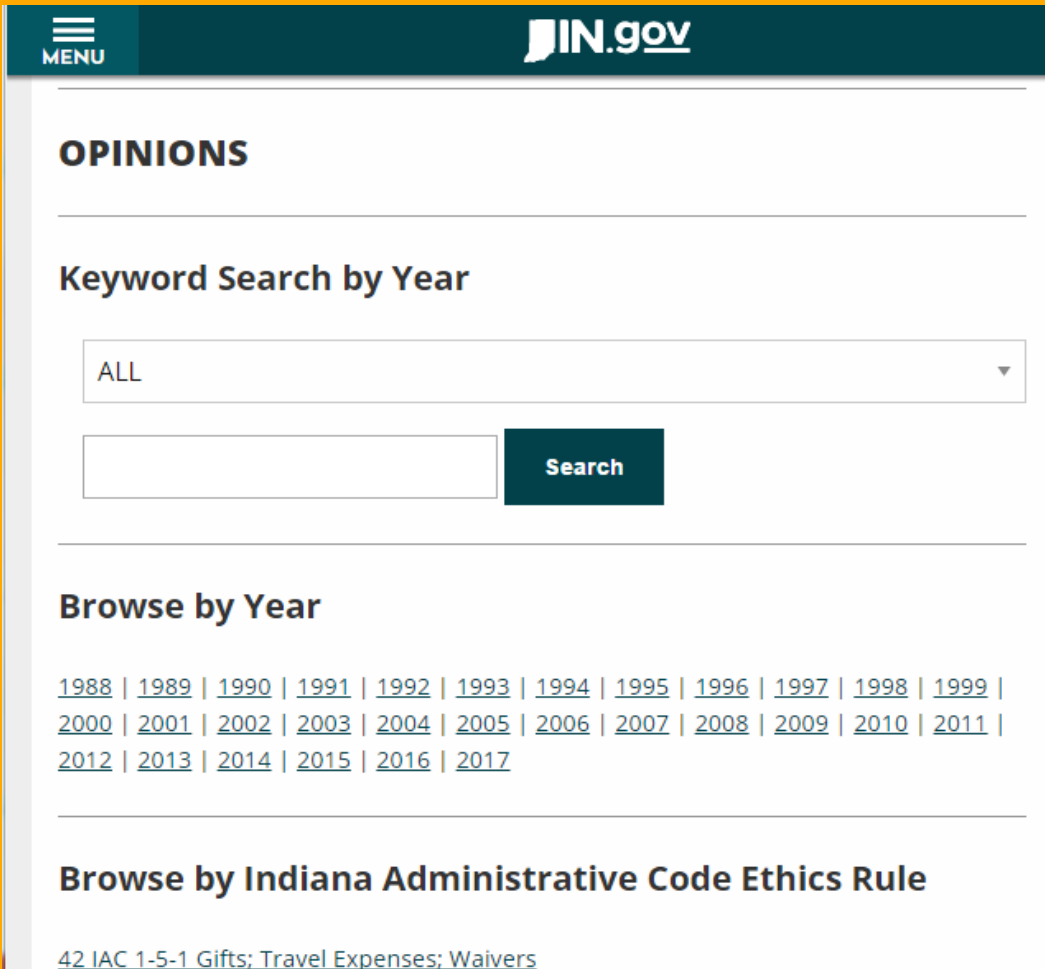
FORMAL ADVISORY OPINIONS

—

Form:

- Real set of facts and specific question(s)
- As much information should be included as possible
- Should be drafted by Ethics Officer on behalf of the requestor if possible so SEC has full picture from agency perspective, not just from employee
- Ethics Officer should be prepared to share a verbal summary or overview of the request to the SEC at the meeting and be able to answer questions from the agency's perspective

OIG TOOLS



The screenshot shows the top navigation bar of the IN.gov website with a 'MENU' button and the 'IN.gov' logo. Below this is a section titled 'OPINIONS'. Underneath, there is a 'Keyword Search by Year' section featuring a dropdown menu currently set to 'ALL', a search input field, and a dark green 'Search' button. Below the search section is a 'Browse by Year' section with a horizontal list of years from 1988 to 2017, each underlined and separated by vertical bars. At the bottom, there is a 'Browse by Indiana Administrative Code Ethics Rule' section with a link to '42 IAC 1-5-1 Gifts; Travel Expenses; Waivers'.

OPINIONS

Keyword Search by Year

ALL

Search

Browse by Year

[1988](#) | [1989](#) | [1990](#) | [1991](#) | [1992](#) | [1993](#) | [1994](#) | [1995](#) | [1996](#) | [1997](#) | [1998](#) | [1999](#) | [2000](#) | [2001](#) | [2002](#) | [2003](#) | [2004](#) | [2005](#) | [2006](#) | [2007](#) | [2008](#) | [2009](#) | [2010](#) | [2011](#) | [2012](#) | [2013](#) | [2014](#) | [2015](#) | [2016](#) | [2017](#)

Browse by Indiana Administrative Code Ethics Rule

[42 IAC 1-5-1 Gifts; Travel Expenses; Waivers](#)

Review the Formal Advisory Opinions that are posted on the OIG website:

<http://www.in.gov/ig/2338.htm>

Can search by keyword, by year, or by rule

Directions for submitting a request are also on the website:

<http://www.in.gov/ig/2814.htm>



PERSPECTIVES

Credits

Special thanks to the following resources :

- Presentation template by SlidesCarnival
- Photographs by Startup Stock Photos, FreeFoto.com, Wikispaces.com, Pixabay.com and by Lori Torres.