



December 1, 2017

Mr. James Clevenger, Chairman
State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

Dear Mr. Clevenger:

I would like to request a formal advisory opinion from the State Ethics Commission on behalf of Dr. Kristina Box. Dr. Box began serving as the Indiana State Department of Health's (ISDH's) State Health Commissioner on October 16, 2017. Respectfully, I request Dr. Box and I come before this Commission at its regularly scheduled meeting on December 14, 2017.

Specifically, we would like to request an opinion verifying the actions Dr. Box should take to ensure her compliance with the Ethics Code's conflict of interest provisions due to her pre-existing role as an Obstetrician-Gynecologist (OB-GYN) Hospitalist with Community Physicians Network. Dr. Box has worked in the Community Health Network as an OB-GYN for over thirty years. Under Ind. Code § 16-19-4-4, Dr. Box may "in an individual capacity as a licensed physician and not in the official capacity as state health commissioner, engage in the practice of medicine if the practice of medicine does not interfere with the performance of the state health commissioner's duties as state health commissioner." Therefore, this statute does not violate the outside employment rule listed under Ind. Code § 4-2-6-5.5 as it particularly contemplates outside employment.

Even though Ind. Code § 16-19-4-4 governs Dr. Box's ability to practice as an OB-GYN outside of her current state position, and Dr. Box does not anticipate her outside state employment will interfere with her performance as state health commissioner, she wants to ensure she follows the letter and spirit of the provisions in the Ethics Code as it relates to the ISDH and any relationships it may have with her outside employment. Two additional matters of importance are confidentiality and salary. As to 42 IAC 1-5-10, "Benefitting from Confidential Information," and 42 IAC 1-5-11, "Divulging Confidential Information," screening will be put in place to avoid any issues with these rule sections. Lastly, Dr. Box has informed me that her outside salary is not tied to any contract or grant with the ISDH or the state, thus avoiding any conflicts with Ind. Code § 4-2-6-10.5.

As the State Health Commissioner, Dr. Box has general supervision for all of the ISDH. By statute (Ind. Code § 16-19-4-1), the State Health Commissioner will serve as a secretary, a non-voting member position, of the ISDH Executive Board. She will serve on any state board prescribed by state law. She will establish effective policy and strategy for the ISDH after consulting with staff and the Executive Board. Her work requires contact with a wide variety of entities, from hospitals to nursing homes, whether private, public, or non-profit. These are just some of the duties she will perform.

As previously stated, Dr. Box is employed at Community Physician Network. Community Physician Network is a part of the Community Health Network, which operates Community Hospital. The ISDH deals directly with Community Hospital. In the past, the ISDH has contracts and/or grants with Community Hospital. Dr. Box has already been advised not to sign or negotiate any contracts involving Community Hospital and she has been advised not to be involved in any regulatory matters involving Community Hospital. However, to address any issues that may arise due to Dr. Box's affiliation with this entity, and to comply with the conflict of interest laws, the ISDH has established the following procedures to screen Dr. Box from all involvement with any contract or regulatory issues relating to Community Hospital:

1. Any and all contracts involving Community Hospital shall be assigned and/or negotiated by the ISDH's Chief of Staff. If he is not available, the contract shall be assigned to one of the approved agency signatories.
2. Any and all regulatory matters involving Community Hospital shall be handled by the Deputy State Health Commissioner, or the ISDH's Chief of Staff. If either of these individuals is not available, an individual listed as an approved signatory designee of the agency will be consulted.
3. Any and all documents that require a licensed physician's signature, including isolation orders, quarantine orders, and any medical directives involving or related to Community Hospital shall be signed by the Deputy State Health Commissioner, the ISDH's Chief Medical Consultant, or the ISDH's Medical Director.
4. While this screen should prevent the Commissioner from having access to any confidential information involving Community Hospital, the Commissioner shall not benefit from or divulge such information.
5. Any other miscellaneous matters involving Community Hospital shall be handled by the Deputy State Health Commissioner or the ISDH's Chief of Staff. If either of these individuals is not available, an individual listed as an approved signatory designee of the agency will be consulted.
6. The Commissioner will contact the agency ethics officer if there are any changes in her association with Community Hospital or any other entity which has a business relationship with or is regulated by the ISDH.

We appreciate the Ethics Commission's consideration of this request for a formal advisory opinion and respectfully ask to come before the Ethics Commission at its next meeting on December 14, 2017. Please contact me with any questions.

Sincerely,



Adrienne Brune
Staff Attorney and Ethics Officer
Indiana State Department of Health
Office of Legal Affairs

cc: Jennifer Cooper, State Ethics Director
Lori Torres, Inspector General

Croft, Celeste

From: Brune, Adrienne
Sent: Friday, December 01, 2017 4:04 PM
To: IG Info
Cc: Cooper, Jennifer
Subject: Dr. Box Formal Opinion Request
Attachments: Dr. Box Formal Request Dec-2017.pdf

Good afternoon:

I am respectfully submitting the attached Request for a Formal Opinion from the State Ethics Commission for the December 14, 2017 meeting. Please let me know if you have any additional questions.

Adrienne

ADRIENNE BRUNE
Attorney
Agency Ethics Officer

Office of Legal Affairs
Indiana State Department of Health
317.233.7270 office
317.233.7143 fax
[*abrune@isdh.in.gov*](mailto:abrune@isdh.in.gov)
[*www.StateHealth.in.gov*](http://www.StateHealth.in.gov)



Confidentiality Statement:

This message and any attachments may be confidential. If you are not the intended recipient, please 1) notify me immediately; 2) do not forward the message or attachment; 3) do not print the message or attachment; and 4) erase the message and attachment from your system.

December 1, 2017

Indiana Ethics Commission
315 E. Ohio Street Room 104
Indianapolis, In 46202

Dear Indiana Ethics Commission,

I am requesting a decision at the December 14, 2017, Formal Advisory meeting related to my ability to work with Journey Support Services LLC. My request for supplemental employment was reviewed and denied by my agency Ethics Officer therefore I am requesting a formal opinion from the Ethics Commission based upon this denial. I respectfully disagree with the decision made by my agency Ethics Officer due to my current job title and duties with the State of Indiana as a Program Coordinator 6.

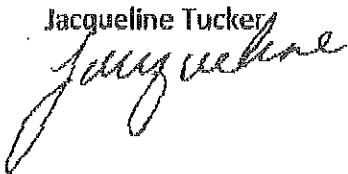
My job title and duties with Journey Support Services LLC would be as a Home-Based caseworker and/or supervised visit facilitator. I would be responsible for monitoring supervised visits with parents and children, Home visits, Facilitation of transportation, supporting and monitoring progress of parenting skills and other tools needed to help families with their journey to reunification.

Journey Support offers Home-based services and supervised visits to children and families who are part of the foster care system to help the client move toward family reunification.

Journey Support Services has a contract with the Department of Child Services. I will work as an employee sub-contractor for Journey Support Services. The only interest I have in Journey Support Services is being a part time employee. My current job with the Department of Child Services Child Support bureau has no similarities with the Department of Child Services Child Services or Journey Support Services LLC. Thanks in advance for taking the time to assist me with this request. (Please see attached my financial disclosure form which I have completed to the best of my knowledge, Supplemental Employment denial form from my Ethics agency and my current State job title and duties).

Sincerely,

Jacqueline Tucker



4450 Drayton Court
Indianapolis, In 46254



FINANCIAL DISCLOSURE STATEMENT

State Form 40876 (R13 / 1-17)

OFFICE OF THE INSPECTOR GENERAL

IC 4-2-6-8

For the calendar year

2017

 Check if this is an amendment to your current statement.

Please read guidelines on page 4.

Name (last) Tucker	Name (first) Jacqueline	Name (middle)
Spouse's name (last) n/a	Name (first)	Name (middle)
Office address (number and street) 500 N. Meridian Street	City Indianapolis	ZIP code 46204
Office telephone number (317) 232-4887	Office e-mail address (required) jackee.tucker@dcs.in.gov	

Fam filing this statement as a: (please select one)	<input type="checkbox"/> Candidate for office	<input type="checkbox"/> Incumbent officeholder	<input type="checkbox"/> Appointing authority
	<input checked="" type="checkbox"/> Member of the INPRS	<input type="checkbox"/> Individual with final purchasing authority	
Office or agency Department of Child Services Child Support Bureau	Job title Program Coordinator 6		

EACH PART MUST BE ANSWERED. WORDS IN BOLD ITALICS ARE INCLUDED IN THE DEFINITIONS.

If you have information to report below, select YES. If no information, select NO. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO		
PART 1 - GIFTS		
List the name and address of any person known to have a business relationship with the agency of the state officer or employee or the office sought by the candidate, and from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars (\$100).		
Name (last)	Address (city)	ZIP code
Name (last)	Address (city)	ZIP code
Name (last)	Address (city)	ZIP code

If you have information to report below, select YES. If no information, select NO. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO		
PART 2 - REAL PROPERTY INTERESTS		
List the location of all real property in which you, your spouse, or your unemancipated children have equitable or legal interest either amounting to five thousand dollars (\$5,000) or more or comprising ten percent (10%) of your net worth or the net worth of your spouse or your unemancipated children. You need not include your residence unless it also serves as income property.		
Property and its location		
Property and its location		
Property and its location		

If you have information to report below, select YES. If no information, select NO. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO	
PART 3 - NON-STATE EMPLOYERS	
List the name of your employer(s) and the employer(s) of your spouse and the nature of each employer's business.	
Your employer Journey Support Services LLC	Nature of business Home visits and Home-Based Caseworker
Spouse's employer n/a	Nature of business

If you have information to report below, select YES. If no information, select NO. Yes No

PART 4 - SOLE PROPRIETORSHIP OR PROFESSIONAL PRACTICE

List any sole proprietorship owned or professional practice operated by you or your spouse and the nature of the business.

Name of your business	Nature of business
Name of spouse's business	Nature of spouse's business

Do any clients for these businesses listed above have a *business relationship* with your agency (or in the case of a candidate, with the office sought)?

Yes No

List the name of any client or customer from whom you or your spouse received more than thirty-three percent (33%) of your (or your spouse's) non-state income in a year.

If you have information to report below, select YES. If no information, select NO. Yes No

PART 5 - PARTNERSHIPS

List any partnership in which you or your spouse is a member and the nature of the partnership business.

Name of partnership	Nature of partnership
Name of spouse's partnership	Nature of spouse's partnership

If you have information to report below, select YES. If no information, select NO. Yes No

PART 6 - OFFICER OR DIRECTOR OF CORPORATION

List the name of any corporation in which you or your spouse is an officer or director and the nature of the corporation's business. Churches need not be listed.

Name of corporation	Nature of business
Name of spouse's corporation	Nature of spouse's business

If you have information to report below, select YES. If no information, select NO. Yes No

PART 7 - STOCKHOLDER OF CORPORATION

List the name of any corporation in which you, your spouse, or your unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000). A time or demand deposit in a financial institution or insurance policy need not be listed.

Name of corporation	Yours	Spouse's	Children's
Name of corporation			
Name of corporation			

If you have information to report below, select YES. If no information, select NO. Yes No

PART 8 - MOST RECENT EMPLOYER

List the name and address of your most recent former employer.

Name of your most recent former employer	Street address (number and street)		
Department of Child Services Child Support Bureau	500 N. Meridian Street		
current employer	City	State	ZIP code
	Indianapolis	In	46204

COMMENTS

Please place any comments in the fields below.

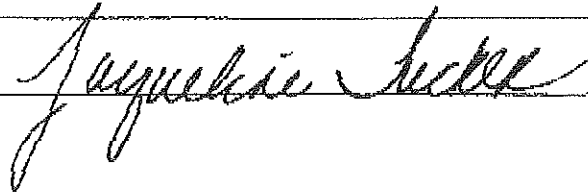
AFFIRMATION

I swear or affirm, under the penalty of perjury, that the facts as presented on this Financial Disclosure Statement are true, complete, and correct to the best of my knowledge and belief.

I understand that I may file an amended statement upon discovery of additional information required to be reported.

I acknowledge awareness of Indiana Code 4-2-6-8(d) under which a failure to file in a timely manner or filing a deficient statement is subject to a civil penalty at the rate 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). I also acknowledge awareness of Indiana Code 4-2-6-8(e) under which a person who intentionally or knowingly files a false statement commits a class A infraction.

Personal signature



Date signed (month, day, year)

December 1, 2017

Mail or deliver to the following address:

Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis IN 46202-3210
Telephone: (317) 232-3850



JOB DESCRIPTION

State Form 52468 (12-05)

This document is used to provide a basic description of essential duties and other work elements.

Employee Name: <i>Jacqueline Tucker</i>	
Agency: DCS	BU: 502
Division: CSB	Section/District:
Job Title: Program Coordinator 6	Job Code: 3003MB3
Working Title (if different from above): Parent Locate Service Clerk	
Reports To: Sheila Davis	
FLSA Status: <input type="checkbox"/> Non-Exempt (OT Eligible) <input type="checkbox"/> Exempt	Effective Date :

Purpose of Position/Summary:

The purpose of the position is to locate CSB case participants' address and employment information. Contributes to the organizational goals and objectives by assisting in the provision of excellence in child support enforcement by helping to ensure children receive financial support from their parents.

Each State is required to have a PLS unit to locate absent parents so paternity and child support orders can be established and enforced. This involves working with the local child support offices and other state and federal agencies. The unit assists with working reports so undistributed child support collections are timely distributed. Also, the unit assists with working other reports to enhance the data of the system so collection processes are able to work appropriately for the collection of unpaid support.

Essential Duties/Responsibilities:

The duties include updating custodial parents and non-custodial parent information in ISETS. This may include updating the non-custodial employer and addresses information in the database. The employee is expected to utilize all available resources such as: Panoptic, Justice Xchange, Bureau Motor Vehicle, Accurant, Experian, The Work Number, Federal Case Registry, and Federal Parent Locate Service Portal.

Locate requests are received from IVD Prosecutor staff, out-of-state child support offices, as well as Child Support Bureau staffs. All locate functions are used to establish and enforce child support orders.

Research the various error reports to correct ISETS information. These reports display possible participant Social Security Number and Date of Birth errors in ISETS and research is completed to correct invalid information as needed.

Conduct locate searches for undistributed collections that are due to custodial parents and non-custodial parents. These include State dated warrants, return warrants, and child support warrants.

Job Requirements:

High School diploma or GED.
Ability to provide excellent internal and external customer service skills.
Good organizational skills and detail oriented.
Ability to perform well in a fast paced/high volume work environment.
Excellent verbal and written skills.
Computer literate
Ability to keep work information confidential.

Supervisory Responsibilities/Direct Reports:

Sheila Davis

Difficulty of Work:

This work requires attention to detail and understanding of the impact the work performed has to the agency. The employee must follow and understand federal guidelines and regulations in order to complete work duties. Employee must work independently with minimal supervision.

Responsibility:

The employee is responsible for following laws, rules, regulations and guidelines of the Department of child Services. Provide locate searches while keeping all information confidential.

Personal Work Relationships:

Works as part of a team and provides assistance to co-workers as needed. Interacts in a professional manner with co-workers throughout the CSB. Participates in required meetings and trainings as requested.

Physical Effort:

Work on a computer all day.

Working Conditions:


Desk job in a cubicle environment

**DEPARTMENT OF CHILD SERVICES
SUPPLEMENTAL EMPLOYMENT AUTHORIZATION**


PART A: To be completed by employee:

Employee Information	
Employee Name	Jacqueline Tucker
Title	Program Coordinator 6
Location	500 N. meridian Street Indpls, IN 46216
Office Phone	317-232-4887
Email	Jacqueline.Tucker@DCS.in.gov
Supplemental Employment Information	
Business Name	Journey Support Services LLC
Business Address	3737 N. meridian St. Ste 203 Indpls, IN 46208
Business Phone	317.622.6711
Nature of Business	To provide assistance to families in foster care
Position Title	Caseworker (Home base) involved with DCS/protection/victimization facilities
Summary of Duties	Face to face visits, observation and reporting on cases
Proposed Work Schedule	Work schedule will vary
Proposed Weekly Hours	Weekly hours will vary
My signature below indicates that I have reviewed and understand the terms and conditions outlined in the DCS Supplemental Employment policy. The proposed supplemental employment will not interfere with my ability and availability to perform my job responsibilities with DCS. I agree to notify my supervisor in the event that my supplemental employment is terminated or my duties associated with the supplemental employment change significantly.	
Signature	Jacqueline Tucker Date 10-30-17

PART B: To be completed by supervisor:

Supervisor Name	Sheila Davis	
Title	Program Supervisor Director	
Office Phone	317-232-4915	
Email	Sheila.Davis@DCS.IN.GOV	
Select one of the following:		
A. <input type="checkbox"/> My signature below indicates that the employee listed below has been approved for supplemental employment. I have reviewed the applicable references in Section II of the DCS Supplemental Employment policy and have found that no conflict of interest exists.		
B. <input type="checkbox"/> My signature below indicates that I have not granted this request based on the following conflict of interest:		
C. <input checked="" type="checkbox"/> I have not made a determination about a conflict of interest, and instead have forwarded this request to the appropriate DCS ethics officer for review.		
Signature		Date 10-31-17

PART C: To be completed by ethics officer if supervisor has checked option C in PART B above

Ethics Officer Name	Enca Sullivan	
Title	Chief Counsel, Legal & Internal Affairs	
Phone	317-234-5706	
Email	Enca.Sullivan	
Select one of the following:		
A. <input type="checkbox"/> My signature below indicates the employee has been approved for supplemental employment.		
B. <input checked="" type="checkbox"/> My signature below indicates that the supplemental employment referenced above constitutes a conflict of interest with the employee's official DCS duties and the employee's request has therefore been denied. See attached for details.		
C. <input type="checkbox"/> The Indiana State Ethics Commission was consulted for an advisory opinion. Based on the opinion (attached), the employee's request has been: <input type="checkbox"/> Approved <input type="checkbox"/> Denied		
Signature		Date 11/1/17

subject to opinion by Ethics Commission

PART D: To be completed by employee upon termination of supplemental employment:

This is to notify DCS that I terminated the supplemental employment (above) has been terminated.	
Signature	Date

12/01/2017

To whom it may concern;

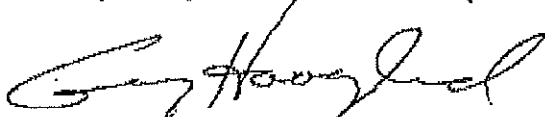
My name is Gary Hoagland. I am a registered nurse, and Assistant director of nursing at Madison State Hospital. I am a state employee.

I am wanting to apply to the city of Hanover, In. police department as a reserve police officer. I would receive all my training from the police department while not on state time. I would not work as a reserve officer for the Hanover police while on state time. I would not seek any political gain or any financial gain while performing my duties as a reserve officer for the city of Hanover. All my police duties would be performed while not on state time.

My questions are:

1. Am I ethically clear to seek this position, and serve my community as a reserve police officer?
2. While on duty as a reserve officer, I may be called to back up county, or state police within the Clifty Falls State Park. As a state employee, would I be able to enter the State Park with a firearm to carry out my duties as a reserve officer? I do not wish to jeopardize my employment with the state in any form.

Thank you for your time and consideration.



Gary Hoagland, R.N.

Gary.Hoagland@FSSA.IN.gov

GARY HOAGLAND
221 Glad Street
HANOVER, IN. 47243

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
November 15, 2017**

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 James Clevenger, Chairperson; Robert Jamison; and Daryl Yost. Staff present included Lori Torres, Inspector General; Jennifer Cooper, Ethics Director; Matthew Savage, Staff Attorney; Kelly Haltom, Staff Attorney, and Celeste Croft, Legal Assistant, Office of Inspector General.

Others present were Adrienne Brune, Attorney/Ethics Officer, State Department of Health; Mark Tidd, Prequalification & Permits Director/Ethics Officer, Department of Transportation; Tamera Glickman, Assistant General Counsel/Ethics Officer, Department of Administration; Latosha Higgins, Managing Attorney/Ethics Officer, Family & Social Services Administration; Robert Glass, Program Director 1, Family & Social Services Administration; James Lam, Environmental Manager, Indiana Department of Environmental Management; Timothy Schultz, General Counsel/Ethics Officer, Indiana State Board of Education; Matthew Voors, Executive Director, Indiana State Board of Education; Kathleen Mills, Attorney/Ethics Officer, Indiana Department of Environmental Management; Shannon Stuart, Legal Intern, Indiana State Board of Education; Byron Ernest, Board Member, Indiana State Board of Education; Stephanie Mullaney, Deputy Attorney General, Attorney General’s Office; Chelsea Smith, Administrative Law Judge/Ethics Officer, Indiana Department of Homeland Security; Marsha Bugalla, General Counsel, Department of Education; Bruno Pigott, Commissioner, Indiana Department of Environmental Management; and Jeffrey Herr, Director of Account Management and Counsel, Indiana Economic Development Corporation.

II. Adoption of Agenda and Approval of Minutes

Commissioner Jamison moved to adopt the Amended Agenda and Commissioner Yost seconded the motion which passed (3-0). Commissioner Yost moved to approve the Minutes of the September 14, 2017 Commission Meeting and Commissioner Jamison seconded the motion which passed (3-0).

III. Request for Formal Advisory Opinion

**17-I-13 Robert Glass, Program Director
Latosha Higgins, Interim Managing Attorney/Ethics
Family and Social Services Administration**

Latosha Higgins, Ethics Officer for the Indiana Family and Social Services Administration (FSSA), stated that she is requesting a Formal Advisory Opinion on the behalf of Robert Glass.

Since December 2014, Mr. Glass has worked for FSSA's Office of Medicaid Policy and Planning (OMPP) as a Government Affairs Analyst. OMPP oversees the administration of Indiana Health Coverage Programs, which include Medicaid, the Children's Health Insurance Program (CHIP) and the Healthy Indiana Plan (HIP). Mr. Glass assists the FSSA Legislative Director and Medicaid Director in executing Medicaid's legislative goals. His duties include analyzing state legislation and federal regulations, responding to external inquiries, and serving as the Medicaid legislation liaison. The purpose of Mr. Glass' position is to effectively manage Medicaid legislation and ensure the program is in compliance with federal law and regulations.

On October 5, 2017, Mr. Glass notified Ms. Higgins of his intent to apply for a State Policy & Legislative Affairs Manager position with CareSource, and she reviewed the post-employment restrictions that would be applicable. Ms. Higgins determined there was no need for an internal screen since Mr. Glass had not commenced negotiations. The following week, Mr. Glass was contacted for a first round interview on October 11, 2017. Although Mr. Glass does not oversee CareSource's contract with the State, Mr. Glass and Ms. Higgins agreed that an internal screen would be appropriate to avoid any potential conflicts of interests and the appearance of impropriety during the negotiation process. Mr. Glass' supervisor implemented a screen so that Mr. Glass would not handle any matters related to CareSource.

CareSource is a nonprofit managed care company based in Dayton, Ohio. The company offers Medicaid managed care plans, Medicare Advantage plans and Marketplace insurance plans in multiple states. CareSource, one of the four managed care entities ("MCE"), contracted with FSSA to coordinate care for members enrolled in Indiana Medicaid programs.

Mr. Glass neither engaged in the negotiation or administration of any contract between the State and CareSource, nor was he in a position to make a discretionary decision affecting the outcome of the negotiation or administration of any contract with CareSource.

OMPP's Quality & Outcomes section maintains oversight of the MCEs and manages their contracts to ensure compliance. Contract managers under the leadership of the Managed Care Compliance Manger and Quality and Outcomes Section Director are the primary point of contact for the MCEs. CareSource has an assigned contract manager.

Mr. Glass periodically interacts with policy and government relations staff from all MCEs, including CareSource. Typically, his work involves an occasional email or call to discuss policies or legislation relevant to FSSA's managed care programs. Mr. Glass has more frequent contact with MCEs when the Indiana General Assembly is in session. Such contact can include weekly policy discussions. According to Mr. Glass, CareSource often participates in these discussions or may contact him directly with questions. His participation in these discussions includes highlighting recent state or federal developments, providing any relevant information on the subject matter and asking for feedback concerning the impact to the members FSSA serves.

Mr. Glass indicates that his role with CareSource would support the company's government affairs team by developing and implementing advocacy plans, monitoring legislative and governmental activities, analyzing legislation and maintaining relationships with legislative and government officials.

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

The advisory opinion stated the following analysis:

Mr. Glass's post-employment opportunity with CareSource implicates the provisions of the Code pertaining to confidential information, conflicts of interests, and post-employment. The application of each provision to Mr. Glass's prospective post-employment opportunity with CareSource is analyzed below.

A. Confidential Information

IC 4-2-6-6 prohibits Mr. Glass 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. Based on the information provided, it does not appear that Mr. Glass would utilize confidential information in his potential employment with CareSource. So long as any compensation Mr. Glass receives does not result from confidential information, his potential employment with CareSource would not violate IC 4-2-6-6.

B. Conflicts of Interests

IC 4-2-6-9(a)(1) prohibits Mr. Glass from participating in any decision or vote, or matter related to any such decision or vote, if he has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(4) prohibits Mr. Glass from participating in any decision or vote, or matter related to any such decision or vote, in which a person or organization with whom he is negotiating or has an arrangement concerning prospective employment has a financial interest in the outcome of the matter. The definition of financial interest in IC 4-2-6-1(a)(11) includes, "an interest arising from employment or prospective employment for which negotiations have begun."

In this case employment negotiations have already begun as Mr. Glass was contacted for an interview on October 11, 2017. Accordingly, a conflict of interests would arise for Mr. Glass if he participates in a decision or vote, or matter related to such decision or vote, in which either he, by virtue of his employment negotiations with CareSource, or CareSource itself would have a financial interest.

Mr. Glass informed Ms. Higgins of the particular opportunity with CareSource, and they determined that Mr. Glass was not in a position to participate in decisions or votes

involving CareSource's contract with FSSA. However, Mr. Glass' supervisor implemented an internal screen to ensure that Mr. Glass did not handle any matters related to CareSource.

Mr. Glass must ensure he does not participate in any decisions or votes, or matters relating to any such decisions or votes, in which he or CareSource has a financial interest in the outcome of the matter for the remainder of his state employment. Further, if he identifies a potential conflict of interests, he must follow the requirements in IC 4-2-6-9(b) to avoid violating this rule.

C. Post-Employment

IC 4-2-6-11 consists of two separate limitations: a "cooling off" period and a "particular matter" restriction. The first prohibition, commonly referred to as the cooling off or revolving door period, prevents Mr. Glass from accepting employment from an employer for 365 days from the date that he leaves state employment under various circumstances. Employer is defined in IC 4-2-6-1(a)(10) as any person from whom a state employee receives compensation and therefore includes a client or customer of a self-employed individual.

First, Mr. Glass is prohibited from accepting employment as a lobbyist for the entirety of the cooling off period. A lobbyist is defined as an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under the rules adopted by the Indiana Department of Administration (IDOA). The information provided by Ms. Higgins indicates that Mr. Glass understands this restriction and has agreed to abide by the one-year restriction regarding registering as an executive branch lobbyist.

Mr. Glass' prospective position as State Policy & Legislative Affairs Manager with CareSource would support the company's government affairs team by developing and implementing advocacy plans, monitoring legislative and governmental activities, analyzing legislation and maintaining relationships with legislative and government officials. Because this type of work appears to include contact with government officials, the Commission has requested that Mr. Glass read the IDOA's Executive Branch Lobbying manual to ensure that he understands the types of interactions with the executive branch that would be considered to be executive branch lobbying or require him to register as an executive branch lobbyist. To the extent that Mr. Glass does not engage in executive branch lobbying for one year after leaving state employment, his intended employment with CareSource would not violate this provision of the post-employment rule.

Second, Mr. Glass is prohibited from accepting employment for 365 days from the last day of his state employment from an employer with whom 1) he engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of the contract. Mr. Glass neither engaged in the negotiation

or administration of any contract between the State and CareSource, nor was he in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of any contract with CareSource during his state employment. Accordingly, the Commission finds that Mr. Glass is not prohibited under this provision from accepting employment with CareSource immediately upon leaving state employment.

Third, Mr. Glass is prohibited from accepting employment for 365 days from the last day of his state employment from an employer for whom he made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary.

The Commission finds that this provision does not apply to Mr. Glass because he has not made any regulatory or licensing decisions that applied to CareSource as a state employee. Consequently, he is not prohibited under this provision from accepting employment with CareSource immediately upon leaving state employment.

Fourth, Mr. Glass is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence him in his official capacity as a state employee. The information presented to the Commission does not suggest that the offer of employment from CareSource was extended to Mr. Glass in an attempt to influence him in his capacity as a state employee. Accordingly, the Commission finds that this restriction would not apply to his intended employment opportunity with CareSource.

Finally, Mr. Glass is subject to the post-employment rule's "particular matter" prohibition in his prospective post-employment. This restriction prevents him from representing or assisting a person on any of the following twelve matters if he personally and substantially participated in the matter as a state employee: 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. The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

Mr. Glass has not identified any particular matters. Further, his work with FSSA primarily involves legislative and policy matters that would be exempt from the particular matter restrictions.

The Commission finds that Mr. Glass must ensure compliance with the particular matter restriction and refrain from assisting or representing CareSource or any other person on any of the particular matters listed above that he may have personally and substantially worked on during his state employment regardless of whether it involved CareSource.

The Commission found that, subject to the application of the one-year restriction regarding executive branch lobbying, Mr. Glass' post-employment opportunity with CareSource would not violate the post-employment restrictions found in IC 4-2-6-11.

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

IV. Request for Formal Advisory Opinion

17-I-15 Byron Ernest, Board Member
Timothy Schultz, General Counsel/Ethics Officer
Indiana Board of Education

Timothy Schultz, General Counsel and Ethics Officer for the Indiana State Board of Education (Board), stated that he is seeking a Formal Advisory Opinion on behalf of Dr. Byron Ernest. Dr. Ernest is an appointed member of the Board, which operates under the Executive branch of Indiana state government and is a special state appointee for purposes of the Code of Ethics (Code). Dr. Ernest has recently been approached by Noble Education Initiative (NEI) about a possible employment opportunity with NEI.

The Board is composed of eleven members, including the Superintendent of Public Instruction, and it oversees K-12 education policymaking in the State. Pursuant to IC 20-19-2, the Board's responsibilities include authorizing the distribution of state education funds to local schools, adopting rules to implement various programs and requirements, determining a school's P.L. 221 performance and improvement category designation, accrediting public and nonpublic schools, and implementing interventions to improve school performance. In addition, IC 20-19-2-14 explains that "the state board shall do the following: (1) establish the educational goals for the state, developing standards and objectives for local school corporations; (2) assess the attainment of the established goals; (3) assure compliance with established standards and objectives; (4) coordinate with the commission for higher education (IC 21-18-1) and the department of workforce development (IC 22-4.1-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force; (5) make recommendations to the governor and general assembly concerning the educational needs of the state, including financial needs; (6) provide for reviews to ensure the validity and reliability of the ISTEP program." The Board is not responsible for teacher licensing matters because IC 20-28-2-1 vests the Indiana Department of Education (IDOE) with "sole authority and responsibility for governing teacher education and teacher licensing matters, including professional development."

The Board is responsible for intervening in Indiana's lowest performing schools, and the Board may authorize the State to intervene in a school to improve a school's performance. One intervention the Board may prescribe is to assign an operator to manage and operate a school to improve school performance. As a result, IDOE enters into contracts with private entities that the Board approves.

In August 2011, the Board ordered the State to intervene in a number of chronically failing schools, which included three Indianapolis schools (the Turnaround Academies). The Board directed IDOE to contract with Charter Schools USA (CSUSA) to serve as the operator, and the Board voted to approve the requisite contracts to accomplish the intervention. Dr. Ernest was not a Board member at the time of the initial intervention, but Dr. Ernest did vote to reaffirm the intervention status of the Turnaround Academies at the April 15, 2016 Board meeting. During subsequent Board meetings, Dr. Ernest voted to approve the CSUSA contract extensions for the Turnaround Academies.

The Board is also responsible for determining the amounts of state tuition support that are necessary to fund the Turnaround Academies. Except as provided by IC 20-31-9.5-3(c), the manner or methodology by which the Board makes this determination is not otherwise prescribed. Thus, based on IDOE's recommendation, the state tuition support is calculated by utilizing the current child count as the child count multiplier. The Board votes to approve the state tuition support on a biannual basis. The Board, including Dr. Ernest, most recently voted to approve funding for the Turnaround Academies on June 7, 2017, and the Board will vote again in December.

NEI is a Delaware not-for-profit company that does business in Florida and other states across the country. NEI provides a wide range of services including leadership, curriculum, career-tech program development, classroom and grant management, data analysis, auditing/evaluation, eight step process implementation, and full school operations. NEI's mission statement states, "our mission is to create a collaborative group of professionals who will boldly rethink education, making success attainable for all students, while preparing the next generation to solve the challenges of tomorrow." NEI contracts with CSUSA to provide services as a subcontractor for CSUSA for its schools in seven states including Indiana. CSUSA is owned and operated by the spouse of NEI's owner; however, neither spouse has an ownership interest or a role in the management of the other spouse's business. Moreover, there is no parent-subsidiary relationship between CSUSA and NEI. NEI's main office is in Florida, but it maintains a regional office at one of the Turnaround Academies. Although NEI has other work bids circulating, its primary client is CSUSA, with NEI performing the majority of its work in CSUSA schools throughout the country.

NEI performs day-to-day operations for the Turnaround Academies that CSUSA operates. This includes providing students with instructional rigor, managing employees within the schools, and general budget oversight. Though NEI performs the day-to-day operations, CSUSA provides administrative, accounting, budgeting, purchasing, and financial support. Further, CSUSA maintains ultimate authority to accept or deny NEI recommendations regarding the operations of the Turnaround Academies.

Mr. Schultz explained that Dr. Ernest's potential responsibilities with NEI are not specific to the Turnaround Academies or Indiana. Instead, Dr. Ernest would be responsible for educator recruitment and professional development for NEI's nationwide operations. Dr. Ernest's leadership position would be limited to educator recruitment and professional development, and he would not have a management role regarding NEI as an organization. Further, he would not

be responsible for soliciting business on behalf of NEI. Mr. Schultz provided a more detailed job description for Dr. Ernest's potential position as part of his request.

On November 1, 2017, Mr. Shultz requested an informal advisory opinion on behalf of Dr. Ernest from the Indiana Office of Inspector General (OIG). The informal advisory opinion stated that Dr. Ernest should seek a Formal Advisory Opinion regarding the scope of the screen that would need to be implemented when any potential conflict of interests arose for Dr. Ernest under IC 4-2-6-9. Mr. Schultz provided a proposed screening process for the Commission's review prior to the meeting at which this request was considered.

The advisory opinion stated the following analysis:

Conflict of interests - decisions and votes

IC 4-2-6-9 prohibits Dr. Ernest, as a special state appointee, from participating in any decision or vote, or matter relating to that decision or vote, if he has knowledge that any of the following has a financial interest in the outcome of the matter:

- (1) Himself;
- (2) A member of his immediate family;
- (3) A business organization in which he is serving as an officer, a director, a member, a trustee, a partner, or an employee; or
- (4) Any person or organization with whom he is negotiating or has an arrangement concerning prospective employment.

“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.

Employment negotiations between Dr. Ernest and NEI have begun; therefore, Dr. Ernest is prohibited from participating in any matter related to a decision or vote in which NEI has a financial interest. Based on the information provided, NEI subcontracts with CSUSA, who has the contract that was approved by the Board, with IDOE to serve as an operator providing intervention services to a number of failing schools in the State. As part of their subcontract, NEI provides services to schools in Indiana, specifically in performing day-to-day operations for the Turnaround Academies that CSUSA operates. Therefore, decisions or votes that directly target the Turnaround Academies, CSUSA, or NEI and which impact NEI's financial interests would trigger this rule.

Accordingly, the Commission finds that Dr. Ernest would have a potential conflict of interests if he was to participate in decisions or votes, or matters related to such decisions and votes, that would directly affect NEI or CSUSA. IC 4-2-6-9(b) requires that an employee who identifies a potential conflict of interests notify their ethics officer and appointing authority and seek an advisory opinion from the Commission or file a written disclosure statement.

The Ethics Officer for SBOE and Dr. Ernest have requested this formal advisory opinion, and the Ethics Officer has proposed the following procedures to screen Dr. Ernest from all involvement in issues relating to CSUSA and NEI:

1. The Board's Ethics Officer shall monitor Dr. Ernest's involvement in any matter involving CSUSA or NEI to ensure that the screening procedures are followed.
2. If any matter regarding CSUSA, including CSUSA's current contract, is presented to the Board for a vote or decision, Dr. Ernest will recuse himself from the vote and discussion, as well as submit an "Ethics Disclosure Statement" to the OIG.
3. If any matter regarding NEI is presented to the Board for a vote or decision, Dr. Ernest will recuse himself from the vote and discussion, as well as submit an "Ethics Disclosure Statement" to the OIG.
4. Dr. Ernest will not be permitted access to any confidential information concerning CSUSA or NEI without the written approval of the Board's Ethics Officer.
5. Board staff will screen Dr. Ernest from any and all involvement in matters involving CSUSA and NEI; further Board staff refrain from any discussion in Dr. Ernest's presence that might be related to matters involving CSUSA or NEI.
6. The involvement of Dr. Ernest on the Board and employment with NEI shall not serve as an endorsement by the Board of NEI or CSUSA.
7. The Board's Ethics Officer will provide written notice to the OIG anytime the screening procedures are implemented.
8. These screening procedures shall remain in place for the duration of Dr. Ernest's employment with NEI and his service as a Board member.

The Commission finds that this proposed screen should be approved with some added conditions. These conditions are as follows:

1. Dr. Ernest shall notify his appointing authority, Indiana House Speaker Brian C. Bosma, of Dr. Ernest's employment opportunity with NEI and the Commission's formal advisory opinion;
2. Dr. Ernest and Mr. Schultz shall notify the members of the SBOE of Dr. Ernest's employment opportunity with NEI and the Commission's formal advisory opinion; and
3. As General Counsel and Ethics Officer for the SBOE, Timothy Schultz and his successors to the position shall make serious efforts to ensure the screening procedures submitted to and approved by the Commission remain in place and are observed and practiced as long as Dr. Ernest remains on the SBOE.

The Commission found that Dr. Ernest's and SBOE's strict adherence to the proposed screen and added conditions would prevent Dr. Ernest from having a conflict of interest under IC 4-2-6-9.

Commissioner Yost moved to approve the Commission's findings and Commissioner Jamison seconded the motion which passed (2-1).

V. Consideration of Post-Employment Waiver

**For James Lam, Environmental Manager
Presented by Kathleen Mills, Attorney/Ethics Officer
Bruno Pigott, Commissioner
Indiana Department of Environmental Management**

Attorney and Ethics Officer Kathleen Mills presented a post-employment waiver before the State Ethics Commission (Commission), on James Lam's behalf, requesting advice and permission for Mr. Lam to begin working at Patriot Engineering and Environmental (Patriot). Patriot is an environmental consulting firm with whom Mr. Lam had tentatively accepted a Project Geologist position with prior to coming before the Commission. Mr. Lam is a professional Geologist with over 20 years of environmental remediation experience, who has also worked for the Indiana Department of Environmental Management (IDEM) for approximately five years. During Mr. Lam's last year of employment with IDEM, he worked as a Project Manager in the Indiana Brownfield's Program, managed by the Indiana Finance Authority (IFA).

Prior to tentatively accepting the Project Geologist position with Patriot, Mr. Lam was in communication with Patriot, as it related to two POSI contract amendments. During the first POSI contract amendment, Mr. Lam provided technical specifications and site specific information, which was utilized in the request for proposal, sent to all 17 pre-approved vendors, including Patriot. During the second POSI contract amendment, Mr. Lam once again provided site specific information for insertion into the request for proposal, but also informed his supervisor that Patriot was in fact the lowest bidder. After both POSI contract amendments were made, Mr. Lam was assigned to be the Project Manager for both sites.

When questioned by Chairman Clevenger regarding why this matter was presented as a waiver instead of as a formal advisory opinion, Ms. Mills stated it was because she believed that the particular matter restrictions were an unnecessary topic of concern, as there would be little to no communication between Mr. Lam and the State. Chairman Clevenger and Commissioner Yost went on to question the group about whether Mr. Lam's actions, during the POSI contract amendments, were considered the administration of a contract and whether Mr. Lam was being rewarded because of same. Ms. Mills stated that Mr. Lam was not and has never been responsible for any decision-making regarding the awarding of any contracts nor any amendments thereto. Ms. Mills further explained that Mr. Lam's communications with Patriot were the type of communications that took place in the normal course of business. Chairman Clevenger then requested that the group elaborate on whether the POSI contract amendments were still active, and if so, what the status of the projects were. Ms. Mills stated that the first POSI contract amendment

project had already been completed, but that the second POSI contract amendment project had just began back in August of 2017. Based on the tentative acceptance of employment with Patriot, Mr. Lam immediately stopped working on the second POSI contract amendment project in September of 2017. After the Commission briefly discussed the matter further, Commissioner Jamison moved to approve the Commission's findings and Commissioner Yost seconded the motion, which passed (3-0).

VI. Consideration of Petition for Stay of Effectiveness

In the Matter of Leann Walton Case Number 2016-06-0124

Ethics Director, Jennifer Cooper, presented the Respondent's Petition for Stay of Effectiveness for the Commission's review and response. After being questioned by Chairman Clevenger regarding whether this type of petition was acknowledged in the Administrative Rules, Ms. Cooper stated that it was not and that the current processes and rules in place do not allow for, nor do they address, a Petition for Stay of Effectiveness, as the rules end with the issuance of the Final Report. Ms. Cooper stated that Steven Fulk, the Respondent's attorney, could appeal the Commission's decision via judicial review.

After a quick discussion, the Commission determined that such a petition did not exist, and that, because of same, they could not provide Mr. Fulk or the Respondent with an official Order. The Commission did, however, decide to provide the Respondent's Attorney, Steven Fulk, with an explanation, regarding why they reached the conclusion that they did.

Chairman Clevenger asked Staff Attorney Matthew Savage of the Office of Inspector General if he had anything to add regarding the Respondent's Petition for Stay of Effectiveness, to which Mr. Savage replied he did not. After another brief discussion, Commissioner Yost moved to approve the Commission's findings and Commissioner Jamison seconded the motion which passed (3-0).

VII. Director's Report

Ethics Director, Jennifer Cooper, stated that 76 informal advisory opinions had been issued since the last State Ethics Commission meeting held on September 14, 2017, mostly regarding post-employment restrictions and conflicts of interest. Ms. Cooper believed that the increase, from 53 informal advisory opinions to 76 informal advisory opinions, occurred because of the concurrent biannual online ethics training modules that all State employees and special state appointees were required to complete. Ms. Cooper stated that almost everyone who was required to complete the online ethics training modules did so in a timely manner.

Lastly, Ms. Cooper presented the Commission with the upcoming 2018 State Ethics Commission meeting dates. Chairman Clevenger immediately stated that he may have a scheduling conflict that would prevent his presence at the March 8, 2018 meeting, but that he would know more definitively as time moved closer to March.

VIII. Inspector General's Report

Inspector General Lori Torres stated that there were 91 informal advisory opinions completed in the third quarter, a slight decrease from the second quarter, wherein 101 informal advisory opinions were completed. Ms. Torres also stated that for the entire year 2016, there were 318 informal advisory opinions issued, while in 2017, so far, from quarter one through quarter three, there had been 269 informal advisory opinions issued. Per Ms. Torres, the average turnaround time for the Office of Inspector General to respond to an informal advisory opinion request is 1.2 days.

Ms. Torres then discussed the Office of Inspector General's investigations, stating that during the third quarter, the Office of Inspector General received 83 requests to investigate, as opposed to the 70 requests to investigate it received during the second quarter. Ms. Torres further stated that of the 83 requests to investigate, 18 new investigations were opened, and 15 of those are now closed and three have been presented before the Commission. Ms. Torres also stated that as of September 29, 2017, the Office of Inspector General had 33 active open investigations.

The next item discussed by Ms. Torres was the 2017 Legal & Ethics Conference. Ms. Torres explained how the new and shortened format of this annually occurring conference was able to reduce taxpayer costs by more than \$30,000.00, as it was strategically aimed at ethics officers and attorneys.

Lastly, Ms. Torres presented a Certificate of Appreciation to Commissioner Daryl Yost in honor of his seven years and five months as a Commissioner for the State Ethics Commission. She also presented a Certificate of Appreciation to Commissioner Robert Jamison for his eight years and seven months of service as a Commissioner.

IX. Adjournment

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

The public meeting adjourned at 11:17 a.m.