

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

40 IAC 2-1-8 Moonlighting

40 IAC 2-1-9 Conflicts of interest

Employees in supervisory positions over rehabilitation therapists and recreation therapists were being paid by Indiana University to act as site coordinators and to offer credit classes at state hospital facilities to the therapists employed at the state hospitals. SEC found this would create a conflict of interest if the compensation were based in any way on achieving a minimum class size.

**91-I-6: Conflict of Interest, Moonlighting
Indiana State Ethics Commission
Official Advisory Opinion
(Decision March 14, April 11, and June 13, 1991)**

FACT SITUATION

Employees in supervisory positions over rehabilitation therapists and recreation therapists were being paid to act as site coordinators for Indiana University and to offer credit classes to rehabilitation therapists and recreation therapists employed at the state hospitals. The classes were being offered in the facilities of the state hospitals.

The classes were provided as television instruction by Indiana University, primarily for students to get master's degrees in therapeutic recreation. The system had two-way audio, but not two-way video. The classes were mostly offered in the evening, but occasionally were offered early in the morning. Summer sessions also were held. The instructors were faculty members at IU.

Indiana University paid \$300 to someone to serve as a site coordinator at the various state mental hospitals. The site coordinator's responsibilities were to see that the transmission was being received, that the telephone lines worked, to manage registration of the students, distribute materials to potential students, provide the students with the examinations, and to make sure the room was opened and locked after every class meeting.

In order to offer a class by television and cover the cost of the course, IU generally had to have at least eighteen students. The total of eighteen students could come from a combination of sites. However, it was required that there be at least one student at a site and eighteen total in order for the site coordinator to receive the \$300 stipend.

QUESTION

Is it a conflict of interest for those persons whose job responsibilities involve supervision of employees who could possibly sign up for graduate and undergraduate courses for rehabilitation therapists and recreation therapists to receive compensation for being a site coordinator for such courses?

OPINION

The Commission found it a conflict of interest for persons whose job responsibilities involve supervision of employees who could possibly sign up for graduate and undergraduate courses for rehabilitation therapists and recreation therapists to receive compensation for being a site coordinator for such courses if the compensation is based in any way on achieving a minimum class size.

The relevant rules are as follows:

40 IAC 2-1-8, on Moonlighting provides, "A state employee must not engage in outside employment or other outside activity not compatible with the full and proper discharge of his public duties and responsibilities. This outside employment or other outside activity must not

impair his independence of judgment as to his official responsibilities, pose a likelihood of conflict of interest or require him or persuade him to disclose confidential information acquired by him as a result of his official duties."

40 IAC 2-1-9, on Conflict of interest provides, "(A) If in the course of the discharge of his official duties as a state officer or state employee he shall find himself in a position where his, or his spouse's or his unemancipated children's economic interest shall be substantial and material and in conflict with the interest of the people of this State, then such state officer or state employee shall be expected to resolve such conflict as provided for in Section 10 (40 IAC 2-1-10).

"(F) No state officer or employee shall participate in any decision or vote of any kind in which he, his spouse, or his unemancipated children have an economic interest."