

42 IAC 1-5-6 Conflicts of interest; decisions and voting (IC 4-2-6-9)

IDHS Executive and Deputy Directors were subjected to a conflict of interest screening process since they were on detail with the agency but still employed by a university with whom the agency had multiple contracts.

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BACKGROUND

Both the Executive Director and Deputy Director are employees of Purdue University. They are on detail to the Indiana Department of Homeland Security through the Employee Interchange Program under IC 5-10-7. Under this law, the Executive Director and the Deputy Director remain employees of Purdue University and are not considered to be an employee of the Indiana Department of Homeland Security (IC 5-10-7-4(b) and IC 5-10-7-6(c)). Purdue still pays their salary and benefits, and the Department of Homeland Security reimburses Purdue for these expenses.

The Department of Homeland Security has two active contracts with Purdue University and is in the process of negotiating several more such contracts. The Department of Homeland Security has also given federal Homeland Security Grants to Purdue.

The Department of Homeland Security also regulates Purdue University in a number of ways. The Boiler and Pressure Vessel Safety Section regulates Purdue's boilers and pressure vessels through the issuance of permits and conducting inspections. The Elevator Safety Section regulates Purdue's elevators and escalators through the issuance of permits and conducting inspections. Purdue is required to file any plans with the Plan Review Division for approval before they start any construction, and the Building Code Inspection Section inspects buildings that are under construction to ensure compliance with the building laws. The Fire Code Inspection Section has the authority to inspect all of the buildings owned or leased by Purdue to ensure that they are in compliance with the fire safety code.

ISSUE

Do the State Ethics laws allow the Indiana Department of Homeland Security to continue to enter into contracts with Purdue University, given the fact that the Executive Director and Deputy Director are Purdue employees? If so, what type of screening is needed with respect to the Purdue University contracts, grants and permits to ensure that the Executive Director and Deputy Director comply with the State Ethics Law?

RELEVANT LAW

IC 4-2-6-9 addresses conflict of economic interests.

CONCLUSION

The situation of the Executive Director and Deputy Director is similar to a few other persons who have inherent conflicts with the role they perform for the executive branch of state government. In cases of highly technical or specialized state services, the very people who will serve the government the best are the ones who have the inherent conflicts.

Indiana's universities have provided state government with some of their best and brightest professionals through a loan or detail program. Understandably, most of these professionals work in areas of state government that bring them in contact with their university employers. This situation creates the inherent conflict.

IC 4-2-6-9 (b) provides the mechanism for addressing the inherent conflicts.

The Commission approves the screening mechanism that the Department of Homeland Security has put in place pursuant to IC 4-2-6-9 (b) (1): "(1) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter." Accordingly, the DHS Ethics Officer, and the Support Division Chief, shall screen the Executive Director and Deputy Director from all DHS decisions which benefit Purdue University.