

42 IAC 1-5-12 Use of state property

Because ISTA is not a state agency, SEC found it was a violation of the Use of state property rule for an ISD employee to use state resources and state time to inform members and hold meetings related to ISTA matters.

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BACKGROUND

The Director of Operations at the Indiana School for the Deaf (ISD) requests an official advisory opinion regarding the application of a new personnel policy at ISD. Even though ISD is an educational institution, it is an agency of the executive branch of state government. One of the Director's responsibilities is to review and create personnel procedures and policies as well as address employee complaints. A staff member of ISD has filed a complaint with the State Employees' Appeals Commission (SEAC) concerning the use of email and meetings with outside organizations. This staff member is an officer of the Indiana State Teachers Association (ISTA). ISTA is the union that represents teachers throughout Indiana, including the teachers at ISD.

The employee's SEAC complaint is that he is not allowed to use the school's email to send out information regarding upcoming ISTA meetings and has been denied the ability to hold ISTA meetings on state time. ISD prohibits the emails because the school considers the purpose of the email to be solicitation. The ISD does not currently have a de minimus use of state resources policy. However, the Director represents that the uses of state property concerned in this fact situation would not be a permissible use under any de minimus use policy that the ISD might adopt in the future.

ISSUES

1. Is it ethical to allow agency emails to be sent to notify staff of ISTA meetings?
2. May the ISTA meetings or part of the meetings be held on state time?

RELEVANT LAW

42 IAC 1-5-12 Use of state property
Authority: IC 4-2-7-3; IC 4-2-7-5
Affected: IC 4-2-7

CONCLUSION

42 IAC 1-5-12 is applicable to the facts of this case. A state employee seeks to use state time and resources to promote the interests and activities of ISTA.

ISTA provides resources for local affiliates to advocate for members, children and public education. The organization is an affiliate of the National Education Association. It represents members in contract negotiations, provides legal advice and representation, and offers professional development resources for its members.

ISTA was not created by Indiana statute. The organization receives no state funds. It is a corporation with articles of incorporation and by-laws. The ISTA Executive Director is appointed by its Board of Directors. The Board of Directors is elected by its constituent members. It is not a state agency.

Thus, the ISTA's business is not official state business for purposes of 42 IAC 1-5-12. As a result, ISTA activity by the ISD employee on state time and using state resources is a violation of 42 IAC 1-5-12.