

42 IAC 1-5-13, Ghost employment

Assisting a private foundation to process the sales of its gift store would not be considered part of a DNR employee's official duties and would therefore be prohibited under the Ghost employment rule absent the adoption of a general written agency, departmental or institutional policy or regulation by the DNR.

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No. 07-I-15

The Indiana State Ethics Commission ("Commission") issues the following advisory opinion concerning the State Code of Ethics pursuant to IC 4-2-6(b)(1).

BACKGROUND

The Falls of the Ohio Foundation, Inc. ("Foundation") is a 501(c)3, non-profit organization. The Foundation's first mission was to preserve and protect the Falls of the Ohio and to spearhead fundraising initiatives to build a first-class Interpretive Center at the Falls. The Foundation began working with and became partners with the Indiana Department of Natural Resources ("DNR") in 1989. In 1990, the Falls of the Ohio became Indiana's twenty-first state park. Through a collaborative effort between the Foundation, the State of Indiana, and the town of Clarksville, the Interpretive Center was eventually constructed.

Subsequently, the Foundation continued to supplement the efforts of the Falls of the Ohio State Park ("State Park") by raising funds.

DNR and the Foundation have worked in conjunction for about 20 years to advance the purpose of the State Park. Prior to 1999, the State Park receptionist processed gift shop sales in addition to greeting the public. After 1999, the Foundation assumed the operation of the State Park gift shop, including the duties that were previously performed by the State Park receptionist.

The executive director of the Foundation is requesting that a State Park receptionist help with Foundation gift shop sales by ringing up and completing merchandise sale transactions on the Foundation's cash register. This arrangement would take place on weekends during the winter months of December, January, and February and would continue on, as needed, throughout the upcoming year. The gift shop is located beside the reception area where the State Park receptionist greets visitors and takes their admission fee to the Interpretive Center.

ISSUE

May designated staff of the State Park assist the Foundation with the processing of the Interpretive Center's gift shop sales?

RELEVANT LAW

42 IAC 1-5-13 Ghost employment

Sec. 13. A state officer, employee, or special state appointee shall not engage in, or direct others to engage in, work other than the performance of official duties during working hours, except as permitted by general written agency, departmental, or institutional policy or regulation.

ANALYSIS

The ghost employment rule would prohibit the State Park receptionist from engaging in work that is outside of their official duties during working hours. Given that the Foundation appears to be a separate, non-profit organization that assumed the operation of the gift shop in 1999, it does not

appear that processing of the Interpretative Center's gift shop sales would be a part of the State Park receptionist's official duties.

CONCLUSION

Accordingly, the Commission finds that State Park staff would be prohibited from processing sales for the gift shop during working hours absent the adoption of a general written agency, departmental, or institutional policy or regulation by DNR.