

### **42 IAC 1-5-12 Use of state property**

The ISD Ethics Officer sought advice on whether it would be permissible for ISD employees to use their email on a periodic basis throughout the year to conduct a non-profit organization's business in light of a recently adopted ISD policy permitting the limited use of state equipment for non-official state business. SEC found that it was permissible for ISD employees to use their email on a periodic basis to carry out the non-profit organization's business in light of the adoption of the ISD policy.

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

### **BACKGROUND**

A state employee who is the Director of Operations is also the Ethics Officer for the Indiana School for the Deaf ("School"). In March 2006, the Director requested and received a formal advisory opinion from the Commission regarding the use of state property and time by the School's teachers to conduct business related to a non-profit organization. The non-profit organization is an entity of educators. Many teachers at the School are members of the non-profit organization.

In the 2006 opinion, this Commission determined that the non-profit organization's business was not official state business for purposes of 42 IAC 1-5-12. At the time, the School did not have a policy in place that would permit the use of state equipment for non-official state business. Accordingly, the Commission concluded that the use of state time and resources for the non-profit organization's activities would be in violation of 42 IAC 1-5-12.

Since the issuance of that formal advisory opinion, the School has adopted a limited use of state resources policy ("Policy") that governs the permissible use of state equipment for non-official state business. The School believes it is important for its employees to be able to communicate to other employees and representatives on matters of importance to them. Accordingly, the School's Policy permits School employees to use the School's email on a periodic basis during the year to carry out the non-profit organization's business.

### **ISSUE**

Would the use of the School's email by School employees on a periodic basis during the year to carry out the non-profit organization's business be in violation of 42 IAC 1-5-12 in light of the School's recently adopted Policy permitting the limited use of state equipment for non-official state business?

## **RELEVANT LAW**

### **42 IAC 1-5-12 Use of state property**

A state officer, employee, or special state appointee shall not make use of state materials, funds, property, personnel, facilities, or equipment for any purpose other than for official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation.

## **ANALYSIS**

The use of state property rule prohibits the School's employees from using state resources for any purpose other than official state business. In a previous opinion, the Commission determined that the non-profit organization's business was not state business for purposes of this rule. Because the School did not have a policy permitting the use of state property for purposes other than official state business, the Commission further determined that School employees could not use state property for the non-profit organization's business. Since the issuance of the Commission's previous opinion on this matter, the School has adopted a policy that permits the limited use of state property by School employees. While the non-profit organization business continues to be non-state business, the Policy adopted by the School would now appear to allow School employees to utilize the School's email on a periodic basis during the year to carry out the non-profit organization's business.

## **CONCLUSION**

In light of the School's adoption of a Policy permitting the limited use of state equipment for non-official state business, the Commission finds that the use of the School's email by School employees on a periodic basis to carry out the non-profit organization's business would not be in violation of 42 IAC 1-5-12.