

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 Consequently, the analysis reflected in the opinion may be outdated.

IC 4-2-6-11 Post-employment restriction

SEC found it was permissible for a former ISP employee who was responsible for coordinating travel activities to offer travel agent services to the State and specifically to ISP following her employment with the State since she would not be representing or assisting a person regarding a particular matter involving a specific party or parties.

**91-I-4: Post-Employment Restriction
Indiana State Ethics Commission
Official Advisory Opinion
(Decision March 14, 1991)**

FACT SITUATION

A former Secretary III with the Indiana State Police, now working as an outside travel sales representative, wanted to solicit the state for travel business. Her duties with the State Police had included coordinating travel activities under the supervision of a First Sergeant, Captain, and a Major of the Division. She also worked under the guidance of the travel coordinator of the Department of Administration. Her responsibilities for the State Police included typing travel forms and contacting travel agents or airlines directly to get airline information and tickets. The former secretary left state government in August 1990.

The former state employee said that she had not worked on any projects of a travel nature that she would now be seeking to sell to the state. She also said that there was not any kind of system which she was active in formulating that she was now seeking to fulfill on the other end.

The State Police handles travel forms somewhat differently from other agencies. The travel arrangements are made and the Superintendent's signature is affixed before the paperwork goes to the Department of Administration, the Budget Agency, and the Governor's office for signatures.

QUESTION

Is a former employee of the Indiana State Police who had been a Secretary III in the Training Division and coordinated travel activities permitted to offer travel agent services to the state of Indiana and specifically to the State Police?

OPINION

The Commission found it permissible for a former employee of the Indiana State Police who had been a Secretary III in the Training Division and coordinated travel activities to offer travel agent services to the state of Indiana and specifically to the State Police. The former employee is not restricted by the post-employment restriction because the employee would not be representing or assisting a person regarding a particular matter involving a specific party or parties.

The relevant rule is as follows:

IC 4-2-6-11, on Post-employment restriction provides, "(a) This section applies only:

- (1) to a former state officer or former employee; and
- (2) during the period that is twelve (12) months after the date the former state officer or employee left state service.

(b) As used in this section, "legislative matter" has the meaning set forth in IC 2-2.1-3-1.

(c) As used in this section, "particular matter" means:

- (1) an application;
- (2) a business transaction;
- (3) a claim;

- (4) a contract;
- (5) a determination;
- (6) an enforcement proceeding;
- (7) an investigation;
- (8) a judicial proceeding;
- (9) a lawsuit;
- (10) a license;
- (11) an economic development project; or
- (12) a public works project.

The term does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

(d) A state officer or employee may not represent or assist a person regarding a particular matter involving a specific party or parties:

- (1) that was under consideration by the agency that was served by the state officer or employee; and
- (2) in which the officer or employee participated personally and substantially through:
 - (A) a decision;
 - (B) an approval;
 - (C) a disapproval;
 - (D) a recommendation;
 - (E) giving advice;
 - (F) an investigation; or
 - (G) the substantial exercise of administrative discretion.

(e) An appointing authority or state officer of the agency that was served by the former state officer or former employee may waive application of this section if the appointing authority or state officer determines that representation or assistance of a former state officer or former employee is not adverse to the public interest. A waiver under this subsection must be in writing and must be filed with the commission.

(f) This section does not prohibit an agency from contracting with a former state officer or employee to act on a matter on behalf of the agency."