



# INVESTIGATIVE REPORT

David Cook, Inspector General

OFFICE: INDIANA STATEWIDE ELECTED OFFICIAL  
TITLE: EMPLOYEE'S POLITICAL ACTIVITY  
CASE ID: 2023-03-0116  
DATE: APRIL 17, 2023

*Inspector General Senior Staff Attorney, Mark Mader, after an investigation by Inspector General Director of Investigations, Mark Mitchell, reports as follows:*

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in the executive branch agencies of state government. Ind. Code § 4-2-7-2(b). The OIG also investigates criminal activity and Code of Ethics'<sup>1</sup> violations by state workers. Ind. Code § 4-2-7-3. The OIG may recommend policies and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. Ind. Code §4-2-7-3(2).

## I. Complaint

On March 23, 2023, the OIG received a complaint alleging that a state employee (Employee), who currently works for a statewide elected officer (Officer), used her state title to solicit political donations for a partisan political event (Event). The complaint alleged that the Employee violated 42 IAC 1-5-4, the Code of Ethics' political activity rule. The complaint included a flyer advertising the Event, which had the Employee's photograph and official state title on it.

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<sup>1</sup> The Code of Ethics is found in Ind. Code 4-2-6 and 42 IAC 1.

## **II. OIG Investigation**

OIG Director of Investigations, Mark Mitchell, investigated this matter. Director Mitchell interviewed the Employee about the use of her state title on the flyer advertising the Event. The Employee stated that she received a phone call from the party's County Chairman (Chairman) asking her to serve as the master of ceremonies (MC) for the Event. She stated that she engaged in no further discussions with the Chairman.

The Employee said she first discovered that her state title was used on the flyer when others tagged her on Facebook about the Event. She stated that she had not given permission to use her state title on the flyer. The Employee stated that she called the Chairman when she learned her title was on the flyer and told him she had not given her permission for him or anyone else to use her state title. She said the Chairman apologized and told her he was not aware of the Code of Ethics' political activity rule. The Chairman told the Employee he would take down as many of the flyers for the Event that he could, but he noted by this time the flyer had already been shared.

The Employee also stated she had not solicited political donations from anyone having a business relationship with her office. She stated she believed her role as MC would be to introduce speakers and any other dignitaries. The Employee stated she has not used any state property or state time to participate or prepare for the Event and that she will not use a state vehicle to attend the Event or seek reimbursement for travel expenses. She said she had never been involved in other political activities as a state employee. She also said she intended to pay to attend the Event herself and would obtain a receipt confirming that she paid for the Event.

Director Mitchell interviewed the Chairman. He said he asked the Employee to be the MC for the Event and she accepted. He stated that the Employee did not know or approve his use of her state title on the flyer for the Event. He also said he did not know about the Code of Ethics'

political activity rule, but he referenced seeing other political figures' pictures and titles on flyers. The names he referenced were all elected state officials.

Director Mitchell obtained text messages between the Employee and the Chairman about the Employee serving as the MC for the Event. The text messages show that the Chairman's initial communication with the Employee about serving as MC was prior to her starting state employment. The text messages also show that the Employee sent the Chairman a photograph, but they did not include a discussion about the use of her state title.

### **III. Conclusion**

The Indiana Code of Ethics' political activity rule, 42 IAC 1-5-4, prohibits a state employee or special state appointee<sup>2</sup> from engaging in political activity, including the solicitation of political contributions from anyone, when on duty or while acting in an official capacity for the State. This section does not prohibit a state employee or special state appointee from engaging in such activity when not on duty. This rule also prohibits a state employee or special state appointee from soliciting political contributions at any time, whether on duty or not, from persons with whom the employee or special state appointee's agency has a business relationship or from state employees or special state appointees whom the state employee or special state appointee directly supervises.

The OIG's investigation found insufficient evidence that the Employee violated the Code of Ethics' political activity rule. Although the OIG investigation found evidence that the Employee's title was used on the Event's flyer, the OIG found no evidence that the Employee consented to or was even aware of the use of her state title on the flyer prior to the flyer's distribution. The Employee stated that she did not give permission for the use of her title on the

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<sup>2</sup> 42 IAC 1-5-4, the Code of Ethics' political activity rule, does not apply to state officers.

flyer. Furthermore, the Chairman's statements and copies of texts confirm the Employee's lack of knowledge regarding the use of her title on the flyer. Thus, the OIG found insufficient evidence that the Employee engaged in political activity while acting in her official state capacity.

For the above listed reasons, the OIG is closing this case with no further action. Although the OIG is closing this case, the use of the Employee's state title on a political flyer raised questions by the public. Due to the public nature of the flyer and the appearance of impropriety involved, the Inspector General has determined that it is in the public's interest to report publicly on this investigation and use this investigation to remind state employees and special state appointees of the political activity rule. The OIG also makes the following recommendations: (1) agency ethics officers should remind state employees and special state appointees that their official state titles should not be used on political material; and (2) state employees and special state appointees who participate in political events should communicate to event organizers that they cannot participate in political activity in their official capacity; therefore, their official titles should not be included on advertisements for political events.

Dated: April 17, 2023

APPROVED BY:

A handwritten signature in cursive script that reads "David Cook". The signature is written in black ink and is positioned above a horizontal line.

David A. Cook, Inspector General