

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
October 10, 2024**

I. Call to Order

A regular meeting of the State Ethics Commission (Commission) was called to order at 10:00 a.m. Commission members present were Katherine Noel, Chair; John Krauss; Sue Anne Gilroy; and Rafael Sanchez. Office of Inspector General (OIG) staff present included David Cook, Inspector General; Tiffany Mulligan, Chief of Staff, Chief Legal Counsel; Regan Perrodin, State Ethics Commission Director; Mark Mitchell, Director of Investigations; Elaine Vullmahn, Staff Attorney; Mike Lepper, Special Agent; Sam Stearley, Special Agent; Mark Day, Special Agent; and Nathan Baker, Legal Assistant.

Others present were David Holt, CFO/Chief of Staff, Indiana Destination Development Corporation; Gary L. Haynes, Chief of Staff & Ethics Officer, Indiana State Board of Animal Health; Gillian Oliver, Dairy Plant Specialist; Mattheus Mitchel, Compliance and Ethics Specialist, Indiana Department of Revenue; Josh Brandle, Paralegal, Indiana Department of Revenue; Sean Evans, Legal Analyst, Indiana Department of Revenue; Matthew Gerber, Deputy General Counsel, Family and Social Services Administration; and Tammera Glickman, Deputy General Counsel, Indiana Department of Administration.

II. Adoption of Agenda and Approval of Minutes

Commissioner Krauss moved to adopt the agenda. Commissioner Gilroy seconded the motion, and the Commission passed the agenda (4-0).

Commissioner Gilroy moved to approve the Minutes of the September 12, 2024, Commission Meeting, and Commissioner Krauss seconded the motion, which passed (4-0).

III. Consideration of Waiver of Post-Employment Restrictions for Gillian Oliver

Gary L. Haynes, Chief of Staff and Ethics Officer for the Indiana State Board of Animal Health, presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

Commissioner Krauss moved to approve the Waiver, and Commissioner Sanchez seconded the motion, which passed (4-0).

IV. Request for Formal Advisory Opinion

2023-FAO-006

David Holt, Chief Operating Officer and Chief of Staff

Indiana Destination Development Corporation

David Holt currently serves at the Chief Operating Officer and Chief of Staff for the Indiana Destination Development Corporation (IDDC). Mr. Holt is requesting the Commission's FAO regarding his proposed outside employment opportunity.

IDDC is the marketing arm of the State and helps promote destination assets around the State (sports facilities/teams, music venues, museums, casinos, resorts, amusement parks, zoos, breweries/distilleries/wineries, etc.). IDDC promotes these venues to drive people to visit Indiana. In Mr. Holt's role, he meets with these venues and discusses how IDDC can help them promote themselves to attract out-of-state visitors. IDDC often offers two methods of assistance to these venues: (1) IDDC's calendar of events and (2) IDDC's ticket giveaways. Mr. Holt states that his interaction with these vendors is limited. He first reaches out to them to schedule a meeting. He then goes to their facility for a meeting and later follows up via email connecting them with IDDC's VP of Tourism, Marketing and Communications. This VP helps guide the vendors in their use of IDDC's services. Mr. Holt hands over all interaction to the marketing team and has no further contact with the vendors unless they reach out to him to find out who to talk to at IDDC.

In meetings with distilleries, they often tell Mr. Holt about their operations, how many people visit their destinations each year, how many products they produce and distribute, the state legislative issues that affect them, how they do their own marketing, challenges to their company, how many brands they have, how many employees they have and other general information on the business. During these meetings, Mr. Holt learned that they are having trouble getting whiskey barrels at a good price as many larger distilleries in Tennessee and Kentucky buy them up. This is not an issue on which IDDC would ever work. In an out-of-work conversation with a family friend, Mr. Holt mentioned the problem that distilleries are facing. His friend informed him that the hardwood company for which he serves as Chief Financial Officer has a relationship with cooperage companies that make barrels in Kentucky. Mr. Holt's friend told the cooperage company about their conversation, and the cooperage company felt that they could assist Indiana distillers by providing barrels on a regular basis at a market rate. The cooperage company proposed that Mr. Holt could work on his own time to help the distilleries with this problem.

In this potential role, Mr. Holt would get the distilleries or the distillery guild a locked-in price for each barrel if they have enough volume for the barrels. Mr. Holt would act as a "middleman" between the distillery (or guild) and his friend's hardwood company. His friend's company is already picking up goods from the cooperage company in Kentucky, so they would bring the barrels to Indiana and deliver them to the distilleries. This is a project that Mr. Holt would do for

compensation. Mr. Holt's friend's hardwood company would pay him, and the distilleries would pay the hardwood company. Mr. Holt would not discuss this project with any new distilleries that he visits as part of his IDDC role. Mr. Holt has not yet discussed this project idea with any distilleries.

Mr. Holt's request for a FAO invokes consideration of several Code rules, including IC 4-2-6-5.5. The application of this section to Mr. Holt's situation is analyzed below.

A. Outside Employment/Professional Activity

Mr. Holt's proposed outside employment opportunity would constitute a conflict of interests under IC 4-2-6-5.5 if it results in any of the following: (1) Mr. Holt receiving compensation of substantial value if the responsibilities of the employment are inherently incompatible with the responsibilities of public office or require his recusal from matters so central or critical to the performance of his official duties that his ability to perform them would be materially impaired; (2) Mr. Holt disclosing confidential information that was gained in the course of his state employment; or (3) Mr. Holt using or attempting to use his official position to secure unwarranted privileges or exemptions of substantial value that are not properly available to similarly situated individuals outside state government.

The Commission finds that IC 4-2-6-5.5(a)(3) prohibits Mr. Holt from engaging in his proposed outside employment opportunity. If he were allowed to proceed with his proposed project, Mr. Holt would be using information that he learned through his state duties to make a profit. Doing so would be a violation of IC 4-2-6-5.5(a)(3) as Mr. Holt would be using his official position to secure unwarranted privileges or exemptions of substantial value that are not properly available to similarly situated individuals outside state government.

Commissioner Sanchez moved to approve the Commission's findings, and Commissioner Krauss seconded the motion, which passed (3-0). Commissioner Gilroy abstained from voting due to personal acquaintance with requesting party.

V. State Ethics Director's Report

Regan Perrodin, State Ethics Commission Director, provided the following information to the State Ethics Commission:

The OIG has issued 26 Informal Advisory Opinions (IAOs) since the September Ethics Commission meeting, mostly relating to issues on post-employment, conflicts of interests, and outside employment, and gifts.

OIG continues to work on promulgating the civil penalties rule and on readopting title 42 of the Indiana Administrative Code. The final rule for re adoption has been submitted to the publisher and should be published in the Indiana register on October 23, 2024.

This year's biennial ethics training launched on September 6. All state employees, officers, and special state employees have until October 18 to take it. As new people are onboarded, they will also have 6 weeks to complete the training.

OIG also continues to provide in-person outreach and training.

The OIG's Legal and Ethics Conference is scheduled for the afternoon of November 19, 2024. The Conference has been approved for three hours of attorney ethics CLE credit. More information regarding the conference is on our website.

Finally, one our Staff Attorneys, Hope Blankenberger, is leaving State government for a new opportunity. OIG will be hiring a new Staff Attorney soon.

VI. Adjournment

Commissioner Sanchez moved to adjourn the public meeting of the State Ethics Commission. Commissioner Gilroy seconded the motion, which passed (4-0).

The public meeting adjourned at 10:20 a.m.



STATE OF INDIANA
OFFICE OF THE GOVERNOR
State House, Second Floor
Indianapolis, Indiana 46204

Eric J. Holcomb
Governor

Indiana Code § 4-2-6-11 Post-Employment Waiver

As the Appointing Authority of the Secretary of Commerce of the Indiana Economic Development Corporation (IEDC), I am filing this waiver of the application of certain post-employment restrictions of the Code of Ethics as they may apply to David Rosenberg, IEDC's Secretary of Commerce (hereinafter, "Rosenberg"), in his desired post-employment opportunity with Indiana University (IU).

I understand that I must file and present this waiver to the State Ethics Commission at its next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC § 4-2-6-11(g) and specifically waives the application of:

IC § 4-2-6-11(b)(2): 365-day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC § 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below).*

B. IC § 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC § 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

As the Secretary of Commerce, Rosenberg serves as the Governor-appointed chief executive officer and president of the IEDC. The IEDC is charged with growing the state economy, driving economic development, and helping businesses launch, grow, and locate in the state. Rosenberg has ultimate decision-making authority for the IEDC; however, in practice, the day-to-day operations of the IEDC, including contracting decisions, are normally delegated to the IEDC's executive team, including the Chief Operating Officer, Chief Strategy Officer, Chief of Staff, and numerous other IEDC personnel, so that Rosenberg's involvement on those matters is minimal. That fact is critically important to a proper evaluation of whether or not the above-referenced 365-day cooling-off period or the particular matter restriction under the state's ethics laws are triggered under the circumstances described herein.

First, under the ethics rule for the 365-day cooling-off period, IC § 4-2-6-11(b)(2), there are four specific prohibitions, none of which are or have been triggered by Rosenberg or his activities to date. With respect to the first prohibition, Rosenberg's potential position with IU will not involve executive branch lobbying. As for the second and third prohibitions, Rosenberg, during his time at IEDC, has not made a regulatory or licensing decision directly applicable to his potential employer, Indiana University. Lastly, as more particularly described below, Rosenberg has not negotiated or administered any contracts existing between the IEDC and IU. Accordingly, for purposes of this ethics evaluation, it is our position that there is no, nor will there be any, violation of the 365-day cooling-off period under the circumstances applicable here.

It's important to note that Rosenberg had involvement with only one contract between IEDC and IU. In March 2024, the IEDC entered into a grant agreement with IU to provide partial funding for a new microelectronics workforce project. Rosenberg, along with other members of IEDC's staff, participated in some initial discussions regarding the project with IU representatives in the middle of 2023, nearly a year before the agreement was finalized. Importantly, while Rosenberg participated in those initial discussions about this potential project, he did not thereafter engage in the negotiation of that agreement. Others at the IEDC were involved in negotiating and finalizing the agreement. Indeed, while Rosenberg had general awareness of the status of that potential project, he was not actively involved in the discussions occurring between the parties regarding the negotiations.

Further, the grant agreement, once it was finalized, was not reviewed or signed by Rosenberg. Instead, it was signed by Robert Paglia, who is the IEDC's Chief Operating Officer and who had delegated authority for such purposes.

For purposes of this evaluation, it's important to note that the prohibition regarding contracts is a two-part test. To be triggered, the statute requires that the state employee in question must have been "engaged in the negotiation or administration of a contract **and** was in a position to make a discretionary decision affecting the outcome of such negotiation or administration." IC § 4-2-6-11(b)(2). Therefore, the conjunctive "and" clearly establishes this statutory language as creating a two-part test. Here, in the situation involving Rosenberg, both parts of the test are not triggered. While Rosenberg is the head of the IEDC and clearly in a position to make a discretionary decision affecting the negotiation or administration of a contract, he has not negotiated or administered any contracts between IEDC and IU; thus, only one of the two parts of the test are triggered, meaning there would be no violation of this ethics prohibition in the event he accepts the IU opportunity.

Accordingly, it's our position that Rosenberg's limited involvement in some initial discussions occurring nearly a year before the grant agreement was finalized, the lack of his involvement in the negotiations that occurred thereafter, and the fact that he did not review or sign the grant agreement, clearly establish that the ethics rule involving the 365-day cooling-off period has not been triggered as to Rosenberg under those circumstances.

With respect to the “particular matter” restriction set forth in IC § 4-2-6-11(c), it is not, and will not be, triggered as to Rosenberg. The key words of this specific ethics prohibition are “assisting,” “representing,” and “personally and substantially” participating, which create a high bar. Notably, Rosenberg’s potential role with IU will not involve “assisting” or “representing” a person or entity in connection with a particular matter involving the state for which Rosenberg “personally and substantially” participated while at IEDC. While he doesn’t anticipate that this will ever happen, Rosenberg will take care, going forward, to ensure that he does not “represent” or “assist” a person or entity with a particular matter that he was “personally and substantially” involved with at IEDC.

In conclusion, while we do not believe that either the cooling-off period or the particular matter prohibitions have been or will be triggered should Rosenberg accept the IU opportunity, out of an abundance of caution and in the interests of transparency, we are formally requesting a waiver of the potential application of those restrictions here.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

In connection with this potential post-employment opportunity with IU, Rosenberg will serve in an executive role pertaining to a strategic initiative at the university which will have an impact on Indiana’s workforce and economy. Notably, this role would be completely unrelated to, and independent of, the microelectronics grant agreement that’s referenced above and would not involve interacting with IEDC.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee’s former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Because his prospective employment has no connection to any of the matters involving IU with which he had any involvement while at IEDC, Rosenberg’s prospective employment is unlikely to involve substantial contact with the IEDC. And what contact may occur is unlikely to involve matters where the IEDC has discretion to make decisions based on the work product of Rosenberg. To protect against these concerns, Rosenberg will commit to delegating any direct dealings with the IEDC, should they occur, to subordinates or other departments within IU, and having nothing to do with same.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

Rosenberg has had a long career in Indiana’s public sector where his impact has been significant. Prior to serving the IEDC, Rosenberg served as the Deputy Chief of Staff for the Indianapolis

Mayor's office and Operations Officer for Indianapolis Public Schools. During Rosenberg's tenure with the IEDC, first as the Chief Operating Officer and currently as the Secretary of Commerce, the state experienced record job and wage growth as well as record capital investment. Rosenberg seeks to utilize his unique skills and expertise to continue to serve Hoosiers through this important position with IU, a preeminent state educational institution. Rosenberg is uniquely situated to lead and further develop the synergy between IU, a public research university, and private industry. Indeed, failure to retain Rosenberg in a position of public service within the State of Indiana would be a significant loss. We'd be fortunate to have him continue his public service through this position at IU.

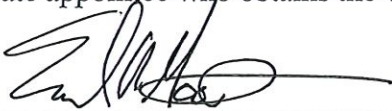
5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

Rosenberg's unique expertise and insights are narrowly tailored to advancing the interests of the State of Indiana by serving in a high-level and impactful executive role within the public sector. Due to the relatively few positions within the state meeting this narrow description, Rosenberg, as well as the state more broadly, will be at a significant loss if his unique talents are not utilized to their fullest extent in this important position. Should he be denied that opportunity, he would likely seek a comparable position in the private sector, which could take him some time to interview for and secure.

C. Signatures

1. Appointing authority/state officer of agency:

By signing below, I authorize the waiver of the above-specified post-employment restrictions pursuant to IC § 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.



Earl A. Goode, Appointing Authority

11/5/24

DATE

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC § 4-2-6-11(g)(1)(B).



Joseph R. Heerens, Ethics Officer

11/5/24

DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission

Katherine Noel, Chair, State Ethics Commission

Date

Mail to:

Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202

OR

Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.



ETHICS DISCLOSURE STATEMENT
CONFLICTS OF INTEREST – DECISIONS AND VOTING
 State Form 55860 (R / 10-15)
 OFFICE OF THE INSPECTOR GENERAL
 IC 4-2-6-9

FILED

NOV - 6 2024

INDIANA STATE
 ETHICS COMMISSION

In accordance with IC 4-2-6-9, you must file your disclosure with the State Ethics Commission no later than seven (7) days after the conduct that gives rise to the conflict. You must also include a copy of the notification provided to your agency appointing authority and ethics officer when filing this disclosure. This disclosure will be posted on the Inspector General's website.

Name <i>(last)</i> Rosenberg		Name <i>(first)</i> David		Name <i>(middle)</i>	
Name of office or agency Indiana Economic Development Corporation			Job title		
Address of office <i>(number and street)</i> 1 N. Capitol Ave., Suite 700			City Indianapolis		ZIP code 46204
Office telephone number (317) 232-8800		Office e-mail address <i>(required)</i> pfowler@iedc.in.gov			
Describe the conflict of interest:					

Mr. Rosenberg, the Indiana Secretary of Commerce and head of the IEDC, is currently enaged in employment discussions with Indiana					
University ("IU"). The IEDC has several past and current agreements with IU, who is a key economic development partner in					
the state.					

Describe the screen established by your ethics officer: *(Attach additional pages as needed.)*

Mr. Rosenberg will be screened from all decision and votes, including contract amendments and negotiations, in which Indiana University may have a financial interest. Pursuant to IC 5-14-3-10, Mr. Rosenberg shall not disclose or otherwise information classified as confidential under IC 5-14-4-3. This restriction applies as long as the subject information is deemed confidential.

AFFIRMATION

Your signature below affirms that your disclosures on this form are true, complete, and correct to the best of your knowledge and belief. In addition to this form, you have attached a copy of your written disclosure to your agency appointing authority and ethics officer.

Signature of state officer, employee or special state appointee

Date signed *(month, day, year)*

11.6.2024

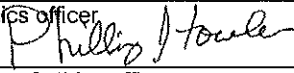
Printed full name of state officer, employee or special state appointee

David Rosenberg

FOR ETHICS OFFICER USE ONLY

Your signature below affirms that you have reviewed this disclosure form and that it is true, complete, and correct to the best of your knowledge and belief. You also attest that your agency has implemented the screen described above.

Signature of ethics officer



Date signed *(month, day, year)*

11.6.2024

Printed full name of ethics officer

Phil Fowler

Baker, Nathaniel P

From: Rosenberg, David
Sent: Wednesday, November 6, 2024 1:33 PM
To: Goode, Earl; Fowler, Phillip
Cc: Lang, Andrew (IEDC)
Subject: Notice of Employment Negotiations

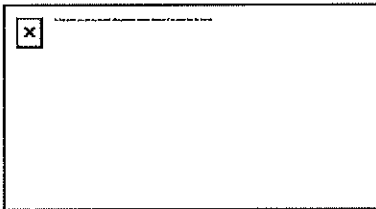
Earl and Phil,

I am writing to inform you as the IEDC Chief Ethics Officer and Appointing Authority, pursuant to IC 4-2-6-9(b), that I have entered into conversations with Indiana University regarding potential future employment, and I intend to fill a written conflict of interest disclosure statement with the office of the Inspector General.

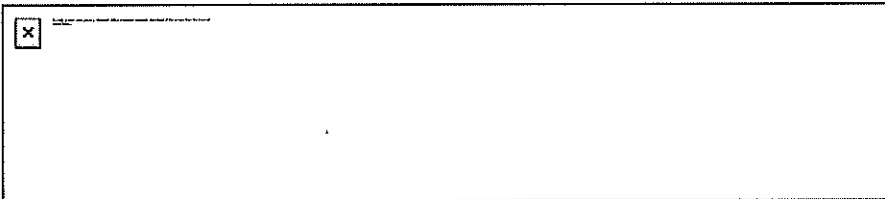
Please let me know any additional information that may be helpful.

Thank You,

David



David Rosenberg
Secretary of Commerce
m 317.701.0547 | forthebold.com



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STATE OF INDIANA
OFFICE OF THE GOVERNOR
State House, Second Floor
Indianapolis, Indiana 46204

Eric J. Holcomb
Governor

November 7, 2024

Indiana State Ethics Commission
c/o Office of Inspector General
315 W. Ohio Street, Room 104
Indianapolis, Indiana 46202

Re: Designation Letter

To Whom It May Concern:

I am the Chief of Staff for Governor Eric J. Holcomb, and, accordingly, the appointing authority for the Secretary of Commerce, David Rosenberg, of the Indiana Economic Development Corporation. I have submitted a post-employment waiver for Secretary of Commerce Rosenberg.

While I will be unable to attend the State Ethics Commission's meeting on November 14, 2024, I hereby designate Joseph Heerens, General Counsel & Ethics Officer for the Governor, as well as Michael Nossett, Deputy General Counsel for the Governor, or either of them, to file and present the above-referenced waiver on my behalf. Therefore, please feel free to direct any questions concerning this filing to either Mr. Heerens or Mr. Nossett.

Sincerely,

A handwritten signature in black ink, appearing to read "Earl A. Goode", with a horizontal line extending to the right.

Earl A. Goode
Chief of Staff

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of Indiana Economic Development Corporation, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Kimberly Hoffman in her post-employment with Accent Indy LLC.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

- A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

As the Vice President, Experiential Marketing & Events, Kimberly has decision making authority regarding the entities with which the IEDC contracts within the particular division of the IEDC she oversees. However, Kimberly has no final contracting or budgeting authority. Kimberly oversees vendor performance and manages the day-to-day working relationship.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

As a part of her new role, Kimberly would not be involved with the current IEDC contract with the vendor. Kimberly tentative position would be a leadership role for the vendor, leading business development and marketing efforts/strategy. She would also be responsible for the development and coaching of direct reports and will take on a planning role for major citywide events

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

The prospective employment is unlikely to involve substantial contact with IEDC. The vendor currently has a proficient team assigned to the IEDC account, and in no way will Kimberly have involvement in or influence over IEDC services or agreement negotiations.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

Kimberly is an experienced professional and returning to her former employer of nine years would retain her skills in the state of Indiana to the benefit of Hoosiers seeking marketing and event planning services, including state agencies.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

The economic hardship to the prospective employee would be moderate to considerable in nature if denied.

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.



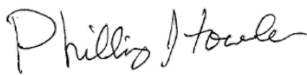
11/1/2024

David Rosenberg

DATE

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).



11/1/2024

Phil Fowler

DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission

Katherine Noel, Chair, State Ethics Commission

Date

Mail to:

Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202

OR

Email scanned copy to: info@ig.in.gov

*Upon receipt you will be contacted with
details regarding the presentation of this
waiver to the State Ethics Commission.*

NOV - 4 2024

INDIANA STATE ETHICS COMMISSION



ETHICS DISCLOSURE STATEMENT
CONFLICTS OF INTEREST – DECISIONS AND VOTING

State Form 55860 (R / 10-16)
OFFICE OF THE INSPECTOR GENERAL
IC 4-2-6-9

In accordance with IC 4-2-6-9, you must file your disclosure with the State Ethics Commission no later than seven (7) days after the conduct that gives rise to the conflict. You must also include a copy of the notification provided to your agency appointing authority and ethics officer when filing this disclosure. This disclosure will be posted on the Inspector General's website.

Name (last) Hoffman	Name (first) Kimberly	Name (middle)
Name of office or agency Indiana Economic Development Corporation		Job title Vice President, experiential Marketing & Events
Address of office (number and street) 1 N. Capitol Ave., Suite 700		City Indianapolis
		ZIP code 46204
Office telephone number (317) 232-8800	Office e-mail address (required) pfowler@iedc.in.gov	

Describe the conflict of interest:
 Ms. Hoffman is currently engaged in negotiations for employment with Accent Indy, her former employer and IEDC contractor.
 The IEDC negotiated and executed a contract with Accent Indy prior to Ms. Hoffman being employed at the IEDC.
 While at the IEDC, Ms. Hoffman oversaw the day-to-day working relationship with Accent Indy, including negotiating contract extensions as needed. While Ms. Hoffman had influence over the Accent Indy agreement, she did not possess final contracting or budgeting authority. If employed by Accent Indy, Ms. Hoffman would not have any interaction with work performed for the IEDC.

Describe the screen established by your ethics officer: *(Attach additional pages as needed.)*

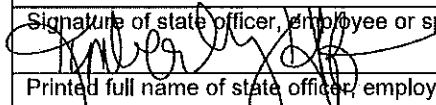
Ms. Hoffman will be screened from all decisions and votes, including contract amendments and negotiations, pertaining to the contractor and potential future employer in which the contractor would have a financial interest.

Ms. Hoffman shall not assist any future employer, including Accent Indy, with any matter she personally and substantially participated in while employed at the IEDC. The restriction applies in perpetuity for the life of the matter. Pursuant to IC 5-14-3-10, Ms. Hoffman shall not disclose or otherwise rely upon information classified as confidential under IC 5-14-4-3. This restriction applies as long as the subject information is deemed confidential.

AFFIRMATION

Your signature below affirms that your disclosures on this form are true, complete, and correct to the best of your knowledge and belief. In addition to this form, you have attached a copy of your written disclosure to your agency appointing authority and ethics officer.

Signature of state officer, employee or special state appointee



Date signed (month, day, year)

11.1.2024

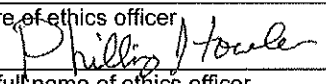
Printed full name of state officer, employee or special state appointee

Kimberly Hoffman

FOR ETHICS OFFICER USE ONLY

Your signature below affirms that you have reviewed this disclosure form and that it is true, complete, and correct to the best of your knowledge and belief. You also attest that your agency has implemented the screen described above.

Signature of ethics officer



Date signed (month, day, year)

11.1.2024

Printed full name of ethics officer

Phil Fowler

Baker, Nathaniel P

From: Lang, Andrew (IEDC)
Sent: Monday, November 4, 2024 1:00 PM
To: IG Info
Cc: Fowler, Phillip; Hoffman, Kimberly
Subject: Post Employment Waiver & Ethics Disclosure - Kimberly Hoffman
Attachments: Kimberly Hoffman Post Employment Waiver 11.1.2024.pdf; Post-Employment Waiver; Post-Employment Waiver; Kimberly Hoffman - Ethics Disclosure Statement -final.pdf

Good Afternoon,

Please find Kimberly Hoffman's post-employment waiver attached for the November meeting. Also attached is the disclosure form as well as evidence of notice being provided to Phil Fowler, our Chief Ethics Officer and the IEDC appointing authority.



Andrew Lang
Deputy General Counsel
m 317.910.7715 | forthebold.com

Economic Development
Corporation



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Baker, Nathaniel P

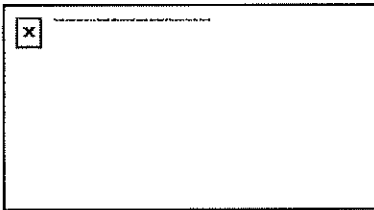
From: Hoffman, Kimberly
Sent: Wednesday, October 30, 2024 1:50 PM
To: Rosenberg, David; Paglia, Robert (IEDC)
Cc: Lang, Andrew (IEDC); Fowler, Phillip
Subject: Post-Employment Waiver

David and Robert –

Given that I can't imagine working for any other executive leadership team, I have started to explore my next move - which may be a return to Accent in a new capacity. Phil and Andrew are helping me with the State Ethics/Post Employment Waiver process and confirming that this is a viable option, but we'll need your sign off to put this in front of the Committee.

I'm targeting January 2025 for departure and have not shared with any other team members internally. While I'm aware that this technically becomes public record once submitted, I appreciate your discretion as I try to keep my team motivated through the end of the year. Should all work out, I'll notify HR, Salena, and team in December.

Thank you!



**Kimberly Hoffman, CMP, DMCP,
DES**
Vice President, Experiential Marketing &
Events
m 317.910.8016 | forthebold.com



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October 19, 2024

Indiana Ethics Commission

Subject: Request for Guidance on Post-Employment Restrictions Related to the Build Westville Project

Dear Members of the Indiana Ethics Commission,

I am writing to seek your guidance on a matter concerning my prospective employment and continued involvement in a state project. My name is Dr. Deanna Dwenger, and I currently serve as the Executive Director of Behavioral Health for the Indiana Department of Correction (IDOC). In this capacity, I oversee the mental health and addiction treatment services provided by our contracted vendor, Centurion, to the incarcerated population across Indiana. Additionally, I am responsible for developing and updating policies related to behavioral health services within IDOC.

During my tenure, I was approached by Mr. Kevin Orme, Executive Director of Construction Services at IDOC, to lend my expertise to the development of the new correctional facility being constructed in Westville, Indiana. I have participated in multiple meetings with the IDOC Construction Services team and representatives from various contractors to provide input on designing a specialized unit for behavioral health treatment. Our discussions have focused on critical aspects such as unit layout, bed capacity, necessary furnishings, and other features essential for effectively serving mentally ill inmates within IDOC.

Approximately six months ago, Elevatus—a company contracted for the Westville project—expressed interest in engaging me as a consultant for other initiatives. They sought my expertise to assist smaller jails lacking mental health professionals in designing therapeutic environments for their patients. While I initially considered this opportunity and discussed the possibility of moonlighting with IDOC's Ethics Officer, I ultimately decided not to pursue additional work at that time and did not seek further guidance from the Ethics Commission.

Recently, I have been exploring new professional opportunities outside of state employment. I reconnected with Elevatus to inquire about potential consulting positions and was informed that they have sufficient work to offer me a full-time position. Based on preliminary feedback from an informal ethics opinion, I have accepted this full-time role with Elevatus.

My primary concern—and the purpose of this letter—is to seek clarification on whether any post-employment restrictions under the Indiana Code of Ethics would apply to my situation, specifically regarding my potential continued involvement with the "Build Westville" project. I wish to understand if a "cooling-off" period is required or if there are any limitations on my participation long-term in this project after transitioning to Elevatus.

To provide further context, IDOC is in the process of closing two existing facilities—the Indiana State Prison in Michigan City and the Westville Correctional Facility—and consolidating operations into a new facility on the Westville grounds. This project was initiated prior to my joining IDOC in 2021. I did not participate in the Request for Proposal (RFP) process, nor was I involved in negotiating or establishing contracts with any companies, including Elevatus. I am not privy to the contract details or terms and have solely contributed my expertise regarding the development of the mental health unit.

Over the past three years, at the request of IDOC's Executive Director of Construction Services, I have collaborated with members of the IDOC Construction Services team and various contractors to provide expert guidance on matters such as the number of mentally ill patients we serve, critical needs within our system, staffing requirements for behavioral health professionals, medication and treatment delivery in a new environment, and the necessity for suicide-safe cells.

Elevatus has occasionally participated in these discussions due to their specialization in designing justice facilities at the state, federal, and local levels. In my forthcoming role with Elevatus, I anticipate working on projects with various governmental entities, offering my expertise to improve mental health facilities within correctional settings. I wish to emphasize that my role will not involve any executive-branch lobbying activities.

If permissible, I am eager to continue contributing to the Westville project by offering my expertise as questions arise. While the design phase is complete and construction is underway, I anticipate that additional inquiries related to programming and treatment modalities may emerge. I understand that decision-making authority must reside with current IDOC employees, and I am committed to limiting my role to providing professional insights and maintaining the original vision to support my successor.

My overarching goal is to ensure that the new facility effectively addresses the mental health needs of Indiana's incarcerated individuals, thereby enhancing the quality of care and benefiting the community at large. I am deeply committed to upholding the highest standards of integrity and ethics in all my professional endeavors.

In summary, I respectfully request your guidance on whether the post-employment restrictions outlined in the Indiana Code of Ethics apply to my employment with Elevatus, particularly concerning my involvement with the Build Westville project. Your advice will be instrumental in ensuring that my actions align with both the letter and spirit of the law.

Thank you for your time and thoughtful consideration of my request. I am available to provide any additional information or clarification you may require.

Sincerely,

Dr. Deanna Dwenger, Psy.D., HSPP

DL Dwenger, PsyD, HSPP

From: [Vullmahn, Elaine](#)
To: [Dwenger, Deanna L](#)
Subject: Ethics Informal Advisory Opinion; Dwenger; IDOC; Post-Employment
Date: Monday, September 16, 2024 1:40:01 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Ms. Dwenger,

Thank you for contacting the Indiana Office of Inspector General (OIG) and for providing additional information. We understand that you are currently employed as the Executive Director of Behavioral Health (Executive Director) with the Indiana Department of Correction (IDOC).

As Executive Director, you oversee the mental health and addiction treatment offered by IDOC's contracted vendors to the incarcerated population. You also write and update policies as they relate to behavioral health services offered within IDOC.

We understand you are interested in leaving state employment and working at Elevatus. You provide that about six months ago Elevatus asked if you would be able to consult with them on other projects. You discussed moonlighting with IDOC's Ethics Officer but ultimately decided at that time you did not want to work more than 40 hours a week. You explain you have become unhappy in your current position and started looking to leave state employment. You reached out to Elevatus and asked how many hours a week a consulting job would be so that you could consider your options and whether you could pair that role with another part-time job. Elevatus has told you they are interested in hiring you full-time.

You explain that IDOC is closing two prisons, Indiana State Prison in Michigan City and Westville Correctional Facility in Westville and building a new prison on the Westville grounds. You provide IDOC had already initiated this work when you joined IDOC in 2021. You provide that you were not part of IDOC's Request for Proposal (RFP) or contract with Elevatus, as that occurred prior to your hire date. You state you know nothing about the Elevatus contract or its terms; however, you have created a relationship with Elevatus.

Over the past three years, as requested by IDOC's Executive Director of Construction Services, you have spoken with the Executive Director of Construction Services and Elevatus, which is building the new prison on the Westville grounds. You have had discussions about the new prison, the behavioral health needs that IDOC will be treating there, and what your vision would be for a behavioral health unit. You explain you have helped with design questions, such as what types of rooms and office space there should be, how medication and treatment will be offered, how many suicide-safe-cells there will be, what furniture is needed, etc.

While you are not sure of the specific post-employment title or duties, you believe Elevatus wants you to use your expertise as a psychologist to help them build the most therapeutic and useful prisons and jails for their clients, much like you have for the Westville prison. Elevatus has an entire justice division and builds federal prisons as well as local jails. You expect you would be working with other state, federal, and local governments who are building new justice centers. Your role would not involve executive branch lobbying.

If allowed, you would very much like to continue working on the Westville Project. You explain your work on the design part is finished as IDOC is currently in the building phase; however, as the walls go up and work on the inside begins, you anticipate more questions will come along, such as on lighting, décor, furniture, etc. You are invested in the Westville Project and want to continue to make sure patients in Indiana's prisons are taken care of and what is created is something meaningful and useful to IDOC and all Hoosiers. You also intend to leave IDOC even if you cannot continue to work on the Westville Project at Elevatus.

You are inquiring as to whether the restrictions of the Post Employment rule within the Code of Ethics (Code) would apply to your prospective employment with Elevatus. Your inquiry primarily invokes consideration of the following Code rules: IC 4-2-6-11, the post-employment rule; IC 4-2-6-9, the conflicts of interests related to decisions and votes rule; and IC 4-2-6-6, 42 IAC 1-5-10 and 42 IAC 1-5-11, the confidentiality rules. We have included the relevant definitions and rules at the end of this opinion.

1. IC 4-2-6-11- Post Employment

The Code's post-employment rule applies to state employees who leave state employment. The post-employment rule (IC 4-2-6-11) consists of two separate limitations: a "cooling off" period and a particular matter restriction. In addition, you are prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence you in your official capacity as a state employee.

A. The "cooling off" period

The first prohibition, commonly referred to as the cooling off or revolving door period, prevents you from accepting employment: (1) as a lobbyist, (2) from an employer with whom you were engaged in the negotiation or administration of a contract on behalf of any state agency and were in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration or (3) from an employer for whom you made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary, until the lapse of 365 days from when you leave state employment.

Regarding Subsection (1) of this rule, you would not be able to work as an executive branch lobbyist in Indiana for one year after leaving state employment. A "lobbyist" is defined as an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under the rules adopted by the Indiana Department of Administration (IDOA). You state that your prospective position with Elevatus will not require you to participate in any form of executive branch lobbying in Indiana. You may still wish to review [IDOA's Executive Branch Lobbying Manual](#) to learn about the types of interactions with members of the executive branch, including IDOC, that are considered executive branch lobbying. So long as your position at Elevatus does not include executive branch lobbying, this subsection of the rule will not apply to your situation.

Subsection (2) prohibits you from working for an employer if you both (a) negotiated or administered a contract with the employer, and (b) were in a position to make a discretionary decision involving the negotiation or administration of the contract with the employer.

Based on the information you provided, you have not negotiated or administered a contract with Elevatus. You were not an IDOC employee when IDOC executed the contract with

Elevatus, and although you have discussed the behavioral health needs of the new prison with Elevatus employees, nothing in the information you provided indicates that you have been responsible for administering or making decisions related to IDOC's contract with Elevatus. So long as you have not negotiated or administered a contract with Elevatus, this subsection does not prohibit you from working for Elevatus immediately upon leaving state employment.

Subsection (3) prohibits you from accepting employment from an employer if you made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer. Nothing in the information you provided indicates that you made a regulatory or licensing decision that directly applied to Elevatus; therefore, this subsection will not prohibit your potential employment with Elevatus.

B. The particular matter restriction

The second prohibition, commonly referred to as the "particular matter" restriction, prevents you from working on the twelve types of matters listed in IC 4-2-6-11(a) if you personally and substantially participated in the matter as a state employee. These matters are 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 statute specifically excludes "the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application" from the definition of "particular matter." The particular matter restriction is not limited to 365 days but instead extends for the entire life of the matter at issue, which may be indefinite.

Under this restriction, you would be prohibited from representing or assisting Elevatus or any other person in any particular matter in which you personally and substantially participated as a state employee.

Based on the information you provided, you were likely personally and substantially involved in the design of the behavioral health unit at the new prison being built on the Westville grounds; thus, the post-employment rule's particular matter restriction likely prohibits you from representing or assisting anyone on the Westville Project or any other particular matters in which you personally and substantially participated while with IDOC.

Please note that the particular matter restriction would prohibit you from representing Elevatus on any particular matter if you personally and substantially participated in the matter while with the State *for the entire life of the matter at issue*. This rule does not prohibit you from working on new matters. It also would not prohibit you from working on matters if you did not personally and substantially participate in the matter as a state employee.

Should you wish to represent or assist Elevatus or any other person on the Westville Project, we strongly recommend you seek a post-employment waiver from IDOC. Such a waiver would need to be granted by IDOC's appointing authority, Christina Reagle, and then filed and presented to the State Ethics Commission (Commission) for approval at one of their public meetings. The requirements for a post-employment waiver are set out in IC 4-2-6-11(g). We recommend that you consult with IDOC's Ethics Officer, Anna Quick, should you wish to pursue such a waiver.

You also have the option to seek a formal advisory opinion from the Commission to get a public and final determination on this matter. The Commission is the ultimate authority on the application of the Code to your circumstances. You can find instructions for submitting a request for a formal advisory opinion from the Commission on our website: <http://www.in.gov/ig/2334.htm>. The next meeting at which the Commission can consider the matter is October 10, 2024, and your request for the Commission's formal advisory opinion must be received by October 1, 2024, for consideration at the next meeting.

If you have any questions regarding your work after reviewing the twelve matters listed above, you may follow up with our office at any time.

2. IC 4-2-6-9 - Conflicts of Interests Related to Decisions and Votes

Also, because you are a current state employee, you should be aware of IC 4-2-6-9, which pertains to conflicts of interests, decisions and voting. This rule prohibits you from participating in any decision or vote, or matter related to that decision or vote, if you have knowledge that various persons may have a financial interest in the outcome of the matter, including any person or organization with whom you are negotiating employment or have an arrangement concerning prospective employment.

The Commission has determined that employment negotiations begin when there is a back-and-forth exchange, such as an interview, regarding your potential employment. As you contacted Elevatus about potential employment and they have told you they are interested in hiring you for a full-time position, you are prohibited from participating in any decisions or votes, or matters related to such decisions or votes, at IDOC in which Elevatus would have a financial interest in the outcome.

You write that your part in the design of the behavioral health unit at the prison being built on the Westville grounds is over because the project is now in the build phase; however, you anticipate there may be additional design questions that you would provide guidance on relating to lighting, color, furniture, etc. Based on this information, it seems possible that you are in a position at IDOC to participate in decisions, votes or matters related to decisions or votes in which Elevatus would have a financial interest.

As such, you may have a potential conflict of interests under this rule. Please note that under this rule, if you identify a potential conflict of interests during your state employment, mere recusal from that matter is not enough. The rule also requires you to notify your Appointing Authority, Christina Reagle, and Ethics Officer, Anna Quick, in writing and either (1) seek a formal advisory opinion from the Commission or (2) file a written disclosure [form](#) with our office in accordance with IC 4-2-6-9's notification requirements. We encourage you to take these steps to ensure compliance with this rule.

3. IC 4-2-6-6, 42 IAC 1-5-10 and 42 IAC 1-5-11- Confidential Information

Finally, you should keep in mind the ethics rule pertaining to confidential information found at IC 4-2-6-6. IC 4-2-6-6 prohibits a state employee from accepting any compensation from any employment, transaction or investment that was entered into or made as a result of material information of a confidential nature. So long as any compensation you receive as an Elevatus employee does not result from information of a confidential nature that you learned in your position with IDOC any such post-employment would not violate IC 4-2-6-6.

42 IAC 1-5-10 and 11 also prohibit you from divulging or benefitting from, or permitting any other person to benefit from, confidential information learned as a result of your position with IDOC. To the extent that you possess information of a confidential nature by virtue of your position at IDOC that could be used to benefit any person, you would need to ensure you comply with these rules.

IN CONCLUSION, based on the information you provided, the Code would not prohibit you from working for Elevatus immediately after leaving state employment; however, you should consider seeking a post-employment waiver for the particular matter restriction or a formal advisory opinion from the Commission should you wish to work on the Westville Project and filing a conflict of interests related to decisions and votes disclosure form with our office. Also, you should be careful to comply with the other Code provisions described above.

Thank you again for submitting your question to our office. Please note that this response does not constitute an official advisory opinion. Only the Commission may issue an official advisory opinion. This informal advisory opinion allows us to give you quick, written advice. The Commission will consider that an employee or former employee acted in good faith if it is determined that the individual committed a violation after receiving advice and the alleged violation was directly related to the advice rendered. Also, remember that the advice given is based on the facts as we understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to our attention.

Sincerely,
Elaine Vullmahn
Office of Inspector General

IC 4-2-6-1 Definitions

Sec. 1. (a) As used in this chapter, and unless the context clearly denotes otherwise:

...

(4) "Assist" means to:

(A) help;

(B) aid;

(C) advise; or

(D) furnish information to;

a person. The term includes an offer to do any of the actions in clauses (A) through (D).

...

(7) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

...

(11) "Financial interest" means an interest:

(A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or

(B) involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of a state officer or employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated

children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee. ...

(12) "Information of a confidential nature" means information:

- (A) obtained by reason of the position or office held; and
- (B) which:

- (i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);
- (ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or
- (iii) is not in a public record, but if it were, would be confidential.

(13) "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

...

(17) "Represent" means to do any of the following on behalf of a person:

- (A) Attend an agency proceeding.
- (B) Write a letter.
- (C) Communicate with an employee of an agency.

...

IC 4-2-7-1 Definitions

Sec. 1. The following definitions apply throughout this chapter:

...

(5) "Lobbyist" means an individual who seeks to influence decision making of an agency and who is registered as an executive branch lobbyist under rules adopted by the Indiana department of administration.

IC 4-2-6-11 One year restriction on certain employment or representation; advisory opinion; exceptions; waivers; disclosure statements; restrictions on inspector general seeking state office

Sec. 11. (a) As used in this section, "particular matter" means any of the following:

- (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.
- (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.

(b) A former state officer, employee, or special state appointee may not accept employment or receive compensation:

- (1) as a lobbyist;

(2) from an employer if the former state officer, employee, or special state appointee was:
(A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; and

(B) in a position to make a discretionary decision affecting the:

- (i) outcome of the negotiation; or
- (ii) nature of the administration; or

(3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer; before the elapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.

(c) A former state officer, employee, or special state appointee may not represent or assist a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state officer, employee, or special state appointee, even if the former state officer, employee, or special state appointee receives no compensation for the representation or assistance.

(d) A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if the circumstances surrounding the employment or compensation would lead a reasonable person to believe that:

- (1) employment; or
- (2) compensation;

is given or had been offered for the purpose of influencing the former state officer, employee, or special state appointee in the performance of the individual's duties or responsibilities while a state officer, an employee, or a special state appointee.

(e) A written advisory opinion issued by the commission certifying that:

- (1) employment of;
- (2) consultation by;
- (3) representation by; or
- (4) assistance from;

the former state officer, employee, or special state appointee does not violate this section is conclusive proof that a former state officer, employee, or special state appointee is not in violation of this section.

(f) Subsection (b) does not apply to the following:

(1) A special state appointee who serves only as a member of an advisory body.

(2) A former state officer, employee, or special state appointee who has:

(A) not negotiated or administered any contracts with that employer in the two (2) years before the beginning of employment or consulting negotiations with that employer; and

(B) any contract that:

(i) the former state officer, employee, or special state appointee may have negotiated or administered before the two (2) years preceding the beginning of employment or consulting negotiations; and

(ii) is no longer active.

(g) An employee's or a special state appointee's state officer or appointing authority may waive application of subsection (b) or (c) in individual cases when consistent with the public interest. A waiver must satisfy all of the following:

(1) The waiver must be signed by an employee's or a special state appointee's:

- (A) state officer or appointing authority authorizing the waiver; and
- (B) agency ethics officer attesting to form.

(2) The waiver must include the following information:

(A) Whether the employee's prior job duties involved substantial decision making authority

over policies, rules, or contracts.

(B) The nature of the duties to be performed by the employee for the prospective employer.

(C) Whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee.

(D) Whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest.

(E) The extent of economic hardship to the employee if the request for a waiver is denied.

(3) The waiver must be filed with and presented to the commission by the state officer or appointing authority authorizing the waiver.

(4) The waiver must be limited to an employee or a special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation of subsection (b) or (c).

The commission may conduct an administrative review of a waiver and approve a waiver only if the commission is satisfied that the information provided under subdivision (2) is specifically and satisfactorily articulated. The inspector general may adopt rules under IC 4-22-2 to establish criteria for post employment waivers.

(h) Subsection (b) applies, subject to waiver under subsection (g), to a former state officer, employee, or special state appointee who:

(1) made decisions as an administrative law judge; or

(2) presided over information gathering or order drafting proceedings; that directly applied to the employer or to a parent or subsidiary of the employer in a material manner.

(i) A former state officer, employee, or special state appointee who forms a sole proprietorship or a professional practice and engages in a business relationship with an entity that would otherwise violate this section must file a disclosure statement with the commission not later than one hundred eighty (180) days after separation from state service. The disclosure must:

(1) be signed by the former state officer, employee, or special state appointee;

(2) certify that the former state officer, employee, or special state appointee is not an employee of the entity; and

(3) state in detail the treatment of taxes, insurance, and any other benefits between the entity and the former state officer, employee, or state appointee.

(j) The inspector general may not seek a state elected office before the elapse of at least three hundred sixty-five (365) days after leaving the inspector general position.

IC 4-2-6-9 Conflict of economic interests; commission advisory opinions; disclosure statement; written determinations

Sec. 9. (a) A state officer, an employee, or a special state appointee may not participate in any decision or vote, or matter relating to that decision or vote, if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter:

(1) The state officer, employee, or special state appointee.

(2) A member of the immediate family of the state officer, employee, or special state appointee.

(3) A business organization in which the state officer, employee, or special state appointee is serving as an officer, a director, a member, a trustee, a partner, or an employee.

(4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment.

(b) A state officer, an employee, or a special state appointee who identifies a potential conflict of interest shall notify the person's appointing authority and ethics officer in writing and do

either of the following:

(1) Seek an advisory opinion from the commission by filing a written description detailing the nature and circumstances of the particular matter and making full disclosure of any related financial interest in the matter. The commission shall:

(A) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter; or

(B) make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services that the state expects from the state officer, employee, or special state appointee.

(2) File a written disclosure statement with the commission that:

(A) details the conflict of interest;

(B) describes and affirms the implementation of a screen established by the ethics officer;

(C) is signed by both:

(i) the state officer, employee, or special state appointee who identifies the potential conflict of interest; and

(ii) the agency ethics officer;

(D) includes a copy of the disclosure provided to the appointing authority; and

(E) is filed not later than seven (7) days after the conduct that gives rise to the conflict.

A written disclosure filed under this subdivision shall be posted on the inspector general's Internet web site.

(c) A written determination under subsection (b)(1)(B) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter. A written determination under subsection (b)(1)(B) shall be filed with the appointing authority.

IC 4-2-6-6 Present or former state officers, employees, and special state appointees; compensation resulting from confidential information

Sec. 6. No state officer or employee, former state officer or employee, special state appointee, or former special state appointee shall accept any compensation from any employment, transaction, or investment which was entered into or made as a result of material information of a confidential nature.

42 IAC 1-5-10 Benefiting from confidential information

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 10. A state officer, employee, or special state appointee shall not benefit from, or permit any other person to benefit from, information of a confidential nature except as permitted or required by law.

42 IAC 1-5-11 Divulging confidential information

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 11. A state officer, employee, or special state appointee shall not divulge information of a confidential nature except as permitted by law.

Elaine Vullmahn

Senior Attorney

Office of Inspector General

315 West Ohio Street, Room 104

Indianapolis, IN 46202
Office: (317) 233-3767
evullmahn@ig.in.gov

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From: Dwenger, Deanna L <DDwenger@idoc.IN.gov>
Sent: Friday, September 13, 2024 9:32 AM
To: Vullmahn, Elaine <EVullmahn@ig.IN.gov>
Subject: Re: Form Submission - Advice

Elaine thank you so much for your response and sorry for not including more detail at the onset, I really didn't know how much detail to go into! I will add my answers below so I make sure to hit them all.

Thanks again!

Deanna Dwenger, PsyD, HSPP

(she/her/hers)

Executive Director of Behavioral Health

317-601-1705

302 W. Washington

Indianapolis, IN 46204

ddwenger@idoc.in.gov



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 Please consider the environment before printing this email

From: Vullmahn, Elaine <EVullmahn@ig.IN.gov>
Sent: Friday, September 13, 2024 9:07 AM
To: Dwenger, Deanna L <DDwenger@idoc.IN.gov>
Subject: RE: Form Submission - Advice

Hello Deanna,

Thank you for reaching out with your request for an informal advisory opinion. In order to provide you with guidance, we will need some additional information. Please provide as much detail as possible in response to the following questions so that we may provide you with a thorough and precise analysis:

- Do you anticipate that you would leave IDOC employment or would you serve as both an IDOC employee and work at the prospective employer at the same time? I am looking to leave state government so this question relates to post employment rather than moonlighting. Sorry for not making that clear.
- With what employer are you interested in pursuing a position? The company is called Elevatus and they are in contract with the Indiana Dept. of Correction.
- Have you applied for a position or had any back-and-forth exchange with the prospective employer about a position? Approximately six months ago Elevatus asked if I would be able to consult with them on other projects they were working on. I briefly discussed it with the ethics officer about moonlighting and he showed me the ethics guidelines online, but ultimately I decided I didn't want to moonlight, as I did not want to work more than 40 hours a week quite honestly ha.

Over the last 6 months though I've become unhappy in my current position and started looking to leave state employment. I reached out to Elevatus and asked how many hours a week they thought a consulting job would be so that I could consider my options, as I thought I could pair it with another part-time job or something. They told me they would be interested in hiring me full time if I was interested. I stated that I needed to look into the ethics of it so I reached out the now ethics officer for IDOC and she believed I could but may not be able to work on the project that they are working on with Indiana Department of Correction, which is building a new prison in Westville Indiana (the prison is yet to be named).

- In your role at IDOC:
 - Please identify the prison name/location(s) that you have been involved with working with and providing feedback to the prospective employer. IDOC is closing two prisons, Indiana State Prison in Michigan City and Westville Correctional Facility in Westville Indiana and building a new prison on the Westville grounds. Over the last three years we have worked on what that new prison will look like and how it will serve our patients. I was involved in requesting we build a behavioral health unit and so we thankfully are. I have helped with discussions about what the look of it should be, what type of rooms and office space there should be, how we will offer medication or treatment and how big the group rooms and how many suicide safe cells there will be, what furniture we should use that is therapeutic etc.
- In your prospective employment:
 - What would your role and duties be? I don't know for sure but my belief is they want to use my expertise as a psychologist to help them build the most therapeutic and useful prisons and jails for their clients. Much like I did for the Westville prison, they have an entire justice division and build federal prisons and local jails as well.
 - Would you engage in lobbying activities? If so, explain. No

- Would you work on any matters related to INDOC? If so, explain. Yes, if allowed I would love to continue working on the westville project. We are currently in the building phase so my work of the design part is done but I imagine as we get the walls up and begin working on the inside more questions will come along such as lighting, decor, furniture etc. I am very invested in this project and would love to continue working on it to make sure the patients in Indiana's prisons are taken care of and we create something meaningful and useful to the agency and all Hoosiers.
- Would you be working with any state agency? If so, explain. In Indiana - maybe? I know they also build schools but I am sure my expertise as a correctional psychologist for the last 11 years will be used primarily in their justice division. I would be working with other states, federal and local governments who are building new justice centers.
- Would you work on any matters that you previously worked on in your position at IDOC? If so, explain. See above. I would love to as I'm very invested in this project, but if I am unable to I will be sad but it won't mean I can't take the job. Unfortunately I won't stay at IDOC just for the Westville Project as there are too many other things that I'm unhappy with.

Thank you in advance for your response. Once we receive information sufficient to analyze your circumstances, we will provide you with our guidance as soon as possible. I really really appreciate you taking the time to review and consider! Thank you

Best,

Elaine

Elaine Vullmahn

Senior Attorney

Office of Inspector General

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-----Original Message-----

From: noreply@in.accessgov.com <noreply@in.accessgov.com>

Sent: Thursday, September 12, 2024 4:06 PM

To: IG Info <info@ig.IN.gov>; Mulligan, Tiffany M <TMulligan@ig.IN.gov>; Cook, David (IG) <DaCook@ig.IN.gov>; Baker, Nathaniel P <NBaker@ig.IN.gov>; Perrodin, Regan (IG) <RePerrodin@ig.IN.gov>

Subject: Form Submission - Advice

EXTERNAL EMAIL: This email was sent from outside your organization. Exercise caution when clicking links, opening attachments or taking further action, before validating its authenticity.

FORM DETAILS

--

First Name: Deanna

Last Name: Dwenger

Email: ddwenger@idoc.in.gov

Phone: (419) 733-3704

State Agency: IN

Description of Your State Occupation: Executive Director of Behavioral Health for Indiana Department of Correction. I oversee the MH and Addiction treatment offered by our contracted vendor to the incarcerated population, and write and update policy as it relates to behavioral health services offered in Indiana Dept. of Correction.

What is your ethics question? When I came to the state in January 2021 IDOC was working on building a new prison. During my 3+ years I have spoken with the Executive Director of Construction Services and the vendor who is building that prison on many occasions to discuss the new prison and the behavioral health needs that we will be treating there and what my vision would be for a behavioral health unit. I have helped with design questions and had conversations as was requested by the ED of Construction Services at the IDOC. I was not at all a part of the contract/RFP process as that was prior to my hire. I know nothing about their contract or the money we pay them for this work. However through this process I have created a relationship with them and they have asked about my interest in helping them build prisons from a mental health perspective. I've consulted IDOC ethics officer and she thought I would be okay to take a position but may not be able to work on the project in Indiana for 1 year. Since I had nothing to do with contracts, RFPs, or ever had a discussion about things related I'm curious if I could accept a position with them if offered and if I would have that 1 year cool-off period, even though I was not part of anything related to the above. Appreciate your feedback and thoughts - thanks so much!



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Eric J. Holcomb
Governor

Christina Reagle
Commissioner

November 13, 2024

IC 4-2-6-11, Post-employment waiver

Dr. Deanna Dwenger

As the Appointing Authority of the Indiana Department of Correction, I, Christina Reagle, am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Deanna Dwenger in her post-employment with Elevatus.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of
(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):

IC 4-2-6-11(b)(1): 365 day required “cooling off” period before serving as a lobbyist.

IC 4-2-6-11(b)(2): 365 day required “cooling off” period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC 4-2-6-11(b)(3): 365 day required “cooling off” period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or



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special state appointee personally and substantially participated in the matter as a state worker.

Dr. Dwenger began employment with the Indiana Department of Correction on January 21, 2021, and worked with Elevatus in her time as an employee with IDOC. Dr. Dwenger did not participate in the procurement of the contract with Elevatus, and did not participate in the RFP process. She was not on the RFP review team for IDOA scoring and did not serve in any consulting capacity. However, Dr. Dwenger did contribute to design, planning and discussions regarding the new prison being built in northwest Indiana, and how it will best serve the mental health and addiction needs of the patient population that will be housed there. As she leaves state employment and joins Elevatus full time to work as a behavioral health consultant for other projects around the country, Dr. Dwenger is requesting to continue to be able to be a part of the project surrounding the new prison. IDOC continues to work with Elevatus on the prison in northwest Indiana and Dr. Dwenger would like to be consulted on the behavioral health unit for that new build as an employee of Elevatus.

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Yes, as the Director of Behavioral Health, Dr. Dwenger reviewed and created policies that impacted the entire IDOC population across the state. Those policies that she worked on while employed with IDOC are as follows:

- Protective Custody - 6/1/24
- Medication Assisted Treatment - 3/1/24
- Health Services for Gender Diverse Adults and Youth - 5/1/24
- Non-Emergent IVM - 3/1/24
- Emergent IVM - 3/1/24
- DYS ARS changes in form of Executive Directive - 5/13/24
- INSOMM Adult and INSOMM Youth - 7/1/24



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- Certified Peer Recovery Coaches - 9/11/24

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Dr. Dwenger will act as a behavioral health consultant to the architect team, ensuring their designs take into account the mental health of those who will be living or working in the environments they create. Her primary work will remain in the Justice Division, but she will also work with the architects in the School and the Wellness Division. Another aspect of her work will include presentations on this topic at conferences such as National Sheriff's Association, American Correctional Association, and the National Commission on Correctional Healthcare. Lastly, she will be part of the team that works on business development and assisting in securing additional Justice contracts with other federal, state, or local correctional partners.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

If granted permission by the Ethics Commission, there may be a time when Dr. Dwenger is asked questions about Indiana DOC's current project with Elevatus. The design phase is mostly complete, but at this time Dr. Dwenger is unsure what questions may arise in the years to come as the project continues.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The Department of Correction acknowledges that Dr. Dwenger has vital information to provide as a behavioral health consultant based on her time spent as a psychologist within the agency and from previously working for our medical vendor, Centurion. The new prison build at Westville is on budget and remains on time for project completion. The citizens of the state of Indiana are counting on their tax dollars to be spent appropriately and efficiently. Elevatus has been an excellent partner during this



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project, and the Department of Correction sees no negative consequences for allowing Dr. Dwenger to continue to be consulted on this prison build. The construction is already in progress, and only minor details, like furnishings might be left to be decided on. Elevatus is an architecture firm, and that portion of IDOC's project is complete. We have no concerns that Dr. Dwenger will continue to keep IDOC's population in mind as she is consulted for any behavioral health unit questions.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

None

C. Signatures

1. Appointing authority/state officer of agency

By signing below, I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.

Christina Reagle

Christina Reagle, Commissioner IDOC

11/13/24

DATE

2. Ethics Officer of Indiana Department of Correction

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).



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Eric J. Holcomb
Governor

Christina Reagle
Commissioner

Anna Quick

Anna Quick

11/13/2024

DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission

Katherine Noel, Chair, State Ethics Commission

Date

Mail to:

Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202

OR

Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.



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Eric J. Holcomb
Governor

Christina Reagle
Commissioner

November 13, 2024

Indiana State Ethics Commission
c/o Office of Inspector General
315 W. Ohio Street, Room 104
Indianapolis, Indiana 46202

Re: Designation Letter

To Whom it May Concern:

I am the Commissioner of the Indiana Department of Correction, and, accordingly, the appointing authority for the Executive Director of Behavioral Health, Dr. Deanna Dwenger, of the Indiana Department of Correction. I have submitted a post-employment waiver for Dr. Dwenger.

While I will be unable to attend the State Ethics Commission's meeting on November 14, 2024, I hereby designate Anna Quick, Chief Legal Officer & Ethics Officer for the Indiana Department of Correction to file and present the above-referenced waiver on my behalf. Therefore, please feel free to direct any questions concerning this filing to Ms. Quick.

Sincerely,

A handwritten signature in cursive script that reads "Christina Reagle".

Christina Reagle
Commissioner

COMMISSION MEETING DATES

2025

January 9, 2025:

Requests due by EOB December 30, 2024; Packets to Commission by EOB January 3, 2025.

February 13, 2025:

Requests due by EOB February 3, 2025; Packets to Commission by EOB February 7, 2025.

March 13, 2025 (9:00 A.M. START TIME):

Requests due by EOB March 3, 2025; Packets to Commission by EOB March 7, 2025.

April 10, 2025:

Requests due by EOB March 31, 2025; Packets to Commission by EOB April 4, 2025.

May 8, 2025:

Requests due by EOB April 28, 2025; Packets to Commission by EOB May 2, 2025.

June 12, 2025:

Requests due by EOB June 2, 2025; Packets to Commission by EOB June 6, 2025.

July 10, 2025:

Requests due by EOB June 30, 2025; Packets to Commission by EOB July 3, 2025.

August 14, 2025:

Requests due by EOB August 4, 2025; Packets to Commission by EOB August 8, 2025.

September 11, 2025:

Requests due by EOB September 1, 2025; Packets to Commission by EOB September 5, 2025.

October 9, 2025:

Requests due by EOB September 29, 2025; Packets to Commission by EOB October 3, 2025.

November 13, 2025:

Requests due by EOB November 3, 2025; Packets to Commission by EOB November 7, 2025.

December 11, 2025:

Requests due by EOB December 1, 2025; Packets to Commission by EOB December 5, 2025.