

INDIANA
STATE ETHICS COMMISSION

315 WEST OHIO STREET, ROOM 104, INDIANAPOLIS, IN 46202 317.232.3850

Minutes of the
Indiana State Ethics Commission
January 9, 2025
At 10:00 am

Indiana State Library
Indiana Authors Room
315 West Ohio Street, Second Floor
Indianapolis, IN 46202

Commission Members Present:

Katherine Noel, Chairperson
Robert Duncan

Commission Members Present via Teams Audio:

Corinne Finnerty
Rafael Sanchez

OIG Members Present:

Regan Perrodin, State Ethics Commission Director
David Cook
Tiffany Mulligan
Doreen Clark
Elaine Vullmahn
Will Deane
JJ Fajt
Sam Stearly
Mark Day
Mike Lepper
Teresa Henson

I. Call to Order and Establishment of Quorum

10:00 am

Katherine Noel calls the meeting to order. Establishes quorum by roll call acknowledging Commissioner Finnerty and Commissioner Sanchez they can hear all parties, and they can be heard via teams audio.

II. Adoption of Agenda

A motion was made and seconded to adopt the agenda. Sanchez/Finnerty
Approved: 4-0

III. Approval of Minutes from January 9, 2025

Approval of minutes of December 12, 2024. A motion was made and seconded to adopt the minutes. Sanchez/Finnerty
Approved: 4-0

IV. Consideration of Formal Advisory Opinions

Indiana Department of Health – Sheila Paul
Presented by: Deputy Chief of Staff Jon Ferguson
Ethics Officer Erin Elam

Sheila Paul, Jon Ferguson and Erin Elam were present and sworn in.

The department of health has requested this formal advisory opinion for Sheila Paul, a Regional Director at IDOH. They are requesting the commission’s opinion on whether she can accept employment from Lake County Health Department due to her work with them at IDOH.

A motion to approve a formal advisory opinion was made by Sanchez and seconded by Duncan.

Roll Call: Commissioner Finnerty approve; Commissioner Sanchez approve;
Commissioner Duncan approve; Chair Noel approve.

V. Post-Employment Waivers

All PE waivers used our template. Under IC 4-2-6-11(g), you may conduct an *administrative review* of the waiver and approve the waiver only if you are satisfied that the requirements for a waiver as outlined by the rule are specifically and satisfactorily articulated.

- a. Consideration of Post-Employment Waiver for:
Indiana Department of Health – Sheila Paul
Presented by Deputy Chief of Staff Jon Ferguson
Ethics Officer Erin Elam

Dr. Weaver, the appointing authority for IDOH can't be here today and designated Deputy Chief of Staff Jon Ferguson to present the waiver. Dr. Weaver provided a waiver waiving the particular matter restriction of the post-employment rule.

In light of formal advisory opinion, IDOH will withdraw the request for a post-employment waiver.

- b. Consideration of Post-Employment Waiver for:
Office of the Governor – Indiana Department of Environmental Management
Commissioner Brian Rockensuess
Presented by Office of the Governor General Counsel and Ethics Officer Joseph Heerens
IDEM Attorney and Ethics Officer James Michael French

Joseph Heerens, Brian Rockensuess, James Michel French were present and sworn in.

Appointing Authority for the Office of the Governor, Earl Goode, is unable to join us so he sent a letter designating Office of the Governor General Counsel and Ethics Officer Joseph Heerens and IDEM Attorney and Ethics Officer James Michael French to present the waiver.

Mr. Goode provided a waiver waiving the cooling off provision related to contract for Commissioner Rockensuess to work for Keramida.

A motion was made to approve and seconded by Sanchez and Noel.

Roll Call: Commissioner Finnerty approve; Commissioner Sanchez approve;
Commissioner Duncan approve; Chair Noel approve.

- c. Consideration of Post-Employment Waiver for:
Office of the Governor – Indiana Department of Transportation Commissioner Michael Smith
Presented by Office of the Governor General Counsel and Ethics Officer Joseph Heerens
INDOT General Counsel and Ethics Officer Kate Shelby

Joseph Heerens, Michael Smith, Kate Shelby were present and sworn in.

Appointing Authority for the Office of the Governor, Earl Goode, is unable to join us so he sent a letter designating Office of the Governor General Counsel and Ethics Officer Joseph Heerens and IDEM Attorney and INDOT General Counsel and Ethics Officer Kate Shelby to present the waiver

Mr. Goode provided a waiver waiving the cooling off provision related to contracts to allow Commissioner Smith to work for HNTB.

A motion was made to approve and seconded by Noel and Sanchez

Roll Call: Commissioner Finnerty approve; Commissioner Sanchez approve;
Commissioner Duncan approve; Chair Noel approve.

- d. Consideration of Post-Employment Waiver for:
Office of the Governor – Family and Social Services Administration Secretary Dr.
Daniel Rusyniak
Presented by Office of the Governor General Counsel and Ethics Officer Joseph
Heerens
FSSA Deputy General Counsel and Ethics Officer Matthew Gerber

Jessica Keyes, Joseph Heerens, Daniel Rusyniak, Matthew Gerger were present and
sworn in.

Appointing Authority for the Office of the Governor, Earl Goode, is unable to join us
so he sent a letter designating Office of the Governor General Counsel and Ethics
Officer Joseph Heerens and IDEM Attorney and FSSA Deputy General Counsel and
Ethics Officer Matthew Gerber to present the waiver.

Mr. Goode provided a waiver waiving the cooling off provision related to contracts and
regulatory and licensing decisions as well as the particular matter restriction to all Dr.
Rusyniak to work for Eskenazi Health.

A motion was made to approve and seconded by Noel and Sanchez

Roll Call: Commissioner Finnerty approve; Commissioner Sanchez approve;
Commissioner Duncan approve; Chair Noel approve.

- e. Consideration of Post-Employment Waiver for:
Office of the Governor – Indiana Economic Development Corporation Secretary of
Commerce David Rosenberg
Presented by Office of the Governor General Counsel and Ethics Officer Joseph
Heerens

David Rosenberg and Joseph Heerens were present and sworn in.

Appointing Authority for the Office of the Governor, Earl Goode, is unable to join us
so he sent a letter designating Office of the Governor General Counsel and Ethics
Officer Joseph Heerens and IDEM Attorney and FSSA Deputy General Counsel and
Ethics Officer Matthew Gerber to present the waiver.

Mr. Goode provided a waiver waiving the cooling off provision related to contracts to
allow Secretary Rosenberg to work for IU.

A motion was made to approve and seconded by Sanchez and Noel.

Roll Call: Commissioner Finnerty approve; Commissioner Sanchez approve;
Commissioner Duncan approve; Chair Noel approve.

- f. Consideration of Post-Employment Waiver for:
Indiana Economic Development Corporation – John Cochran
Presented by Commissioner David Rosenberg

David Rosenberg and John Cochran were present and sworn in.

Secretary Rosenberg is here to present the waiver, waiving the lobbying restriction of the post-employment rule to allow Mr. Cochran to add lobbying to his current scope of employment with the Corydon Group. Since this one is a little different as Mr. Cochran currently works for the Corydon Group but he is looking to expand his responsibilities, I wanted to note a specific provision of the Code. IC 4-2-6-11(g)(4) says the waiver must be limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation of this post-employment rule, meaning the lobbying.

A motion was made to approve and seconded by Noel and Sanchez.

Roll Call: Commissioner Finnerty approve; Commissioner Sanchez approve;
Commissioner Duncan approve; Chair Noel approve.

VI. State Ethics Commission Director's Report

- a. Ethics officer round table coming up January 27—approved for an ethics CLE
- b. 28 IAOs since last meeting—a lot of PE, some gifts, outside employment
- c. Rule: filed first notice which will be published in a couple of weeks to begin our public comment period.
- d. Any media that is here—please contact our public information officer, Stephanie McFarland with any questions. For those of you who don't already have her info, you can find it on our website.

VII. Adjournment

A motion to adjourn was made and approved by Duncan and Sanchez.

Roll Call: Commissioner Finnerty approve; Commissioner Sanchez approve;
Commissioner Duncan approve; Chair Noel approve.

Meeting adjourned at approximately 10:57.



STATE OF INDIANA
Department of Correction

Indiana Government Center—South

302 W. Washington Street • Indianapolis, Indiana 46204-2738

Phone: (317) 232-5711 • Fax: (317) 232-6798 • Website: www.in.gov/idoc/

Mike Braun
Governor

Lloyd Arnold
Commissioner

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

As the Appointing Authority of Indiana Department of Correction, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Sarah Schelle in his/her post-employment with Mi-Case.

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 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):*

Sarah Schelle began employment with the Indiana Department of Correction in October 2007 and has worked with DOC data systems most of her time during that period of employment. She currently serves as the agency's Chief Digital Officer and Data Privacy Officer. IDOC currently has a contract with Mi-Case, which started January 1, 2021 to replace the out-of-date Offender

Management System. During the vendor selection process for the replacement of DOC's 13 legacy systems, Ms. Schelle was not a scorer on the RFP or a signatory for the contract or its 7 amendments. However, Sarah was placed over the system modernization project in August 2021, after the project began, due to the then IT Director leaving his DOC employment. At that time, Ms. Schelle took over as the day-to-day oversight of the project signing off on deliverables being made by the CFO, her direct supervisor and Executive Sponsor of the project. This continued to be the case until much later in the project. As she leaves her employment with the state and joins Mi-Case to work full-time on helping other states successfully implement case management systems around the country, Ms. Schelle is requesting to:

1. Continue to be able to work with the Indiana implementation while they work on future development; and/or
2. Be exempted from the 365-day cooling off period.

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:
 - a. In Ms. Schelle's role as IT Director and project champion for the Mi-Case implementation in Indiana, she was involved in making sure that Mi-Case was meeting schedule deadlines and that the deliverables were of high quality. Ms. Schelle also presented recommendations for these deliverables to the Mi-Case team. Ms. Schelle was also responsible for gathering information for amendments centering around continued development once the parties were engaged in the contract and realized changes in the scope of work were necessary.
 - b. Policies that Ms. Schelle has overseen in her time with IDOC:
 - i. 04-05-101 Tech Hardware and Software Management
 - ii. 04-05-102 Internet, email and Online IT Services Use
 - iii. 04-05-103 IT Systems PW and Account Security
 - iv. 04-05-104 Offender Access to IT
 - v. 04-05-105 IT Security Incident Response
 - vi. 04-05-106 IT Security Plan
 - vii. 04-05-107 Sensitive Data Categorization Request
 - viii. 04-05-108 IT Service Requests
 - ix. 04-05-109 Computer Control
 - x. 00-04-201 Research & Statistics
 - xi. 00-04-202 Publication of ResearchNone of these policies are directly related to the work done by Mi-Case.
2. Please describe the nature of the duties to be performed by the employee for the prospective employer:
 - a. Ms. Schelle has been offered the role of Project Manager. The Project Manager is responsible for overseeing the planning, execution, and successful delivery of multi-year, multi-million-dollar, enterprise level software implementation projects. The Project Manager works closely with cross-functional teams, including product managers, business analysts, software developers, quality assurance professionals, and other stakeholders to ensure projects are

delivered on time, within budget, and meet the highest quality standards. The Project Manager also leads teams to deliver multi-year, enterprise level projects that span across one or more business units. They manage schedules, resources, financials and adhere to control guidelines throughout the development life cycle. They manage issues, risks and project change requests to ensure successful and on-time project delivery. The Project Manager contributes to process improvement initiatives as it relates to improving project delivery and customer satisfaction.

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:
 - a. If the particular matter restriction is waived, then Ms. Schelle would work alongside the IDOC project manager to assure that the project goals are met and that concerns are being handled. If the particular matter restriction is not waived, the specific state has not been chosen by Mi-Case as to where Ms. Schelle will work.
 - b. It is more likely that Ms. Schelle would also be working with a new state or locality in the United States (not Indiana) to implement their case management system and have no contact with IDOC staff members.
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:
 - a. If the 365-day cooling off period and particular matter restriction is waived, Ms. Schelle's experience dealing with the Mi-Case team would help assure that issues and questions are directed to the correct person at IDOC, and create a more efficient vendor relationship with Mi-Case. This is a value add for the IDOC as far as receiving timely service from the vendor in the resolution of bugs and other issues that IDOC may have with their system. The Department of Correction acknowledges that Ms. Schelle has vital information to provide to Mi-Case based on her time spent as the Chief Digital Officer within the agency and from previously working with Mi-Case on IDOC's offender management system. Ms. Schelle could ensure that the Mi-Case contract stays 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 and allowing Ms. Schelle to work for Mi-Case would not be detrimental to the agency or the State of Indiana. The project for IDOC is in the final phases, and the contract is set to expire January 1, 2026.
5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:
 - a. 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.

Lloyd Arnold

(Name of state officer or appointing authority)
Lloyd Arnold, Commissioner

1/30/25
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).

Anna Quick

(Name of ethics officer)
Anna Quick, Ethics Officer

1/30/25
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.



**STATE OF INDIANA
Department of Correction**

Indiana Government Center—South

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Phone: (317) 232-5711 • Fax: (317) 232-6798 • Website: www.in.gov/idoc/

Mike Braun
Governor

Lloyd Arnold
Commissioner

January 30, 2025

Indiana State Ethics Commission
c/o Office of Inspector General
315 W. Ohio Street, Room 104
Indianapolis, IN 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 Chief Digital Officer, Sarah Schelle, of the Indiana Department of Correction. I have submitted a post-employment waiver for Ms. Schelle.

While I will be unable to attend the State Ethics Commission's meeting on February 13, 2025, I hereby designate Anna Quick, Chief Legal Officer and 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 black ink, appearing to read "Lloyd Arnold".

Lloyd Arnold
Commissioner



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

Mike Braun
Governor

February 5, 2025

Indiana State Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202

IC 4-2-6-11
Post-employment waiver: Devon McDonald

Members of the Indiana State Ethics Commission,

As the Appointing Authority of the Indiana Criminal Justice Institute (ICJI), I am filing this waiver of the application of certain post-employment restrictions of the Code of Ethics as may apply to Devon McDonald (hereinafter, "McDonald") in his desired post-employment opportunity with Hamilton County. I understand that I must file and present this waiver to the State Ethics Commission at the next available meeting, and that this waiver is not final until approved by the Commission.

Initial Comments: McDonald desires to accept the role of Director of Council Operations for Hamilton County. At the beginning of the new governor's administration, McDonald was notified that he would not be reappointed as the ICJI Executive Director, necessitating he seek other employment.

This waiver pertains to only one aspect of the one-year "cooling off" period set forth in IC § 4-2-6-11(b)(2), as described below; McDonald will comply with the other post-employment restrictions. Additionally, McDonald is aware of, and will fully honor and comply with, the requirements of the Indiana Code of Ethics pertaining to confidentiality of material information.

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)(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 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:

Answer: McDonald has worked for ICJI for over twelve (12) years, first as Director of Victim Compensation, then as General Counsel and Chief of Staff, and, for the past six (6) years, as Executive Director. In the latter position, he had substantial decision-making authority over the agency's activities, as described below.

ICJI is the state's planning, administering, and coordinating agency for several criminal justice functions. It is composed of a board of trustees (Trustees) and agency staff, including its Executive Director. The Executive Director is not a member of the Trustees but manages Trustee meetings as staff. ICJI's duties include:

- Serving as the planning agency for criminal justice, juvenile justice, traffic safety, and victim services;
- Administering the distribution of certain federal funds;
- Serving as the statistical analysis center for research;
- Awarding criminal justice-related grants to, among others, local government units; and
- Coordinating and collaborating with local, state, and federal entities to evaluate and plan for criminal justice and public safety issues.

As ICJI's Executive Director, McDonald has final purchasing authority and is responsible for the day-to-day administration of the agency, including:

- Reviewing and signing professional services contracts, grant agreements (which are contracts), memorandums of understanding;
- Approving agency expenditures;
- Overseeing agency personnel;
- Developing the agency's policies; and
- Representing the agency to other state agencies and the general public.

Of particular relevance to this post-employment opportunity, McDonald also plays a role in the grant process. For certain grants, McDonald's role is to review RFPs prepared by staff, to provide feedback on score sheets completed by staff and, once a grant is approved by vote of the Trustees, to execute the grant on behalf of the agency. For other grants,

McDonald's role is the same, but with additional authority to approve the applications without a vote of the Trustees.

Of further relevance to this post-employment opportunity, McDonald oversees Comprehensive Community Plans (CCPs), aimed at addressing local substance abuse problems. CCPs identify problems that Local Coordinating Councils (LCCs) address, outline how the LCC will spend certain funds, and certify the LCC's understanding that it must submit quarterly reports in order to remain active. As ICJI Executive Director, McDonald signs letters approving CCPs, though the plans are ultimately approved by the Indiana Commission to Combat Substance Use Disorder.

.....

For this post-employment opportunity, only one of the specific prohibitions of IC § 4-2-6-11(b) & (c) may be triggered here. McDonald's potential position with Hamilton County will not involve executive branch lobbying and, during his time at ICJI, he has not made a regulatory or licensing decision directly applicable to his potential employer. However, the provision regarding "engag[ing] in the negotiation or administration of a contract and [being] in a position to make a discretionary decision affecting the outcome of such negotiations or administration" is likely triggered here. IC § 4-2-6-11(b)(2).

Among the many grants ICJI has issued and in which McDonald has played a role as described above, Hamilton County entities such as the Hamilton County Prosecutor's Office, Hamilton County Sheriff's Office, and the Hamilton County Courts, have received grants, currently have grants, and most likely will receive future grants from ICJI. Additionally, among the many CCPs over which McDonald plays a role in approving, Hamilton County participates in that process as well through its LCC.

Because McDonald's role in the grant process and the CCP process likely triggers IC § 4-2-6-11(b)(2), a waiver is being requested. To the extent that McDonald could be considered to have administered, or participated in the administration of, and be in a position to make discretionary decisions regarding contracts involving Hamilton County, we respectfully request that a waiver of the "cooling off" period be granted.

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

Answer: McDonald will serve as Director of Council Operations for Hamilton County and be responsible for supporting the County Council and facilitating communication between the Council, County personnel, and the public. The role involves strategic planning, project management, and ensuring effective operations within the County Council, while also addressing public inquiries and concerns. The role also involves collecting data as requested by the County Council, auditing meeting minutes, and assisting in the preparation of budgets. The role will entail attendance at all meetings of the Hamilton County Commissioners and providing written reports of the meeting activities to the County Council.

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:

Answer: McDonald's role as the Director of Council Operations for Hamilton County is not anticipated to involve substantial contact with ICJI. His potential position is one of advisory and operations support to the Hamilton County Council. The Hamilton County Commissioners, on the other hand, are the executive body of a county and the entity that authorizes and approves the entering into of contracts by various county officers. However, McDonald is seeking employment with the Council, not the Commissioners.

Moreover, McDonald notes that he will screen from any contact and work involving ICJI for one (1) year during the applicable "cooling-off" period, thus helping to ensure compliance with applicable post-employment restrictions. McDonald notes that it is possible he will encounter ICJI employees at conferences or events, but those interactions, if they occur, would not rise to the level of "substantial contact."

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:

Answer: As one of Indiana's fastest growing counties, Hamilton County and its residents would greatly benefit from the employment of experienced leaders such as McDonald. McDonald's extensive experience with ICJI and in criminal justice and public safety matters will be beneficial to the citizens of Hamilton County. He is an experienced executive, is familiar with complicated state and local governmental operations, is knowledgeable about financial management processes, and is well versed in working with constituent needs—all of which would be beneficial to Hamilton County and its residents.

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

Answer: Denying this waiver request would result in immediate economic hardship for McDonald. McDonald has spent a significant portion of his career working for ICJI. With such significant experience in government service and, specifically, in criminal justice and public safety, McDonald wants to continue his career in public service and use his expertise to serve his community. Because of the many grants to local government entities and CCPs with local governments in which ICJI and McDonald would have played a similar role, denying a waiver in this instance would likely limit McDonald's ability to serve with many other potential employers in the public sector. Further, McDonald has two children to support and needs to continue working in a role at a similar level to continue to provide for his family.

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.

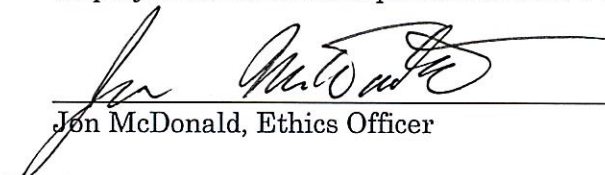


Joshua Kelley, Appointing Authority

2/7/2025
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).



Jon McDonald, Ethics Officer

2/5/2025
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
JAN 27 2025
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 (last) McDonald	Name (first) Devon	Name (middle)	
Name of office or agency Indiana Criminal Justice Institute		Job title Executive Director	
Address of office (number and street) 402 W. Washington Street, Room W469		City Indianapolis	ZIP code 46204
Office telephone number (317) 232-2560	Office e-mail address (required) DeMcDonald@cji.in.gov		

Describe the conflict of interest:
Devon McDonald, works as the Executive Director of the Indiana Criminal Justice Institute (ICJI). In this role he approves and manages the day-to-day administrative operations of ICJI. He signs contracts, grant agreements, other expenditures, and provides guidance and assistance to agency personnel.
He has begun the process of exploring employment with Hamilton County as the Director of Council Operations. Various other Hamilton County entities, such as the Hamilton County Sheriff, Hamilton County Prosecutor, and the Hamilton County Courts, have grants, have had grants, and will most likely have grants in the future awarded from ICJI to them.

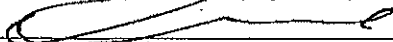
Describe the screen established by your ethics officer: *(Attach additional pages as needed.)*

Devon McDonald has discussed the situation with the ICJI Chief of Staff, Jade Palin (Chief Palin), and Chief Palin will be assuming communication with Hamilton County during this process. Devon McDonald will be removed from all discussions, votes, and decisions regarding any existing or future grants or contracts between Hamilton County and ICJI.

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)

1/27/2025

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

Devon McDonald

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)

1/27/2025

Printed full name of ethics officer

Jon McDonald

McDonald, Jon

From: Mcdonald, Devon
Sent: Monday, January 27, 2025 9:32 AM
To: Kelley, Joshua
Cc: McDonald, Jon
Subject: Notice of employment opportunity

Mr. Kelley,

I am providing notice that I am exploring an employment opportunity with Hamilton County as the Director of Council Operations. I am proving this notice to comply with state ethics requirements.

Respectfully,

Devon McDonald
Indiana Criminal Justice Institute
402 W. Washington Street, RM W469
Indianapolis, IN 46204
demcdonald@cji.in.gov
Phone: 317-232-2560
Cell: 317-258-3263



Mike Braun, Governor
State of Indiana

Indiana Family and Social Services Administration
Office of General Counsel

402 W. WASHINGTON ST., ROOM W451, MS27
INDIANAPOLIS, IN 46204-2744

SENT VIA EMAIL

February 3, 2025

Chairwoman Katherine Noel
Indiana Ethics Commission
315 West Ohio Street, Suite 104
Indianapolis, Indiana 46204

RE: Courtney Penn

Chairwoman Katherine Noel and Commission Members:

I am writing on behalf of Courtney Penn, who served as Director of the Office of Early Childhood and Out of School Learning (“OECOSL”) for Indiana’s Family and Social Services Administration (“FSSA”) until January 2025. KinderCare Learning Center’s Corporate Office has offered Ms. Penn the position of Government Relations Representative – Midwest where she would support their overall government affairs team and advocate for the needs of child care programs across nine Midwest; analyze and summarize legislation to determine its impact on the goals of KinderCare Learning Centers; develop policies and practices to support child care work in each of nine Midwest states; communicate with internal and external partners; complete reports and share legislative information as needed; and write memos and talking points for the government relations team, as needed. This position would not involve any executive branch lobbying as KinderCare Learning Centers has its own dedicated lobbyist.

In her position with OECOSL, Ms. Penn did not negotiate or administer any contracts with KinderCare Learning Centers, but then Secretary of FSSA Dr. Daniel E. Rusyniak did designate her licensing authority to license child care centers such as individual KinderCare Learning Centers located in the State of Indiana. Licensing decisions were not made by Ms. Penn, but through licensing consultants and regional managers of OECOSL. When approved, those licenses would be electronically generated by those licensing consultants and regional managers of OECOSL. Once those licenses were issued, Ms. Penn did not regulate any of the licenses of any individual KinderCare Learning Centers in Indiana.

Although Ms. Penn’s signature appeared on the licenses issued to individual KinderCare Learning Centers, she did not consider or approve those licenses and no licenses were issued to



the KinderCare Learning Center's Corporate Office, as it is not directly involved in child care. In addition, Ms. Penn had no day to day interactions with any KinderCare Learning Center locations and did not inspect or otherwise regulate their licenses once issued.

Ms. Penn seeks a formal advisory opinion from the Ethics Commission regarding whether the Ethics Code's Post Employment Restrictions would prohibit her from accepting employment with KinderCare Learning Center's Corporate Office, specifically whether she would be prohibited from accepting same less than 365 days from leaving state employment, pursuant to 42 IAC 1-5-14.

Cordially,



Matthew A. Gerber
Deputy General Counsel & Ethics Officer

MAG/dl

From: [Courtney Penn](#)
To: [Gerber, Matthew](#)
Subject: Re: Ethics Informal Advisory Opinion, Penn, FSSA, Post-Employment
Date: Tuesday, January 28, 2025 4:21:02 PM

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.

Hi Matthew

I want to move forward with a formal advisory opinion from the committee. Also, you have my permission to share the information that I sent to you in reference to the email from the office of the inspector general that I received.

I do have a question. If KinderCare would agree to not have me work on anything pertaining to Indiana prior to the end of my cooling off period would that make a difference?

Thanks so much

Courtney Penn

On Mon, Jan 27, 2025 at 2:35 PM Courtney Penn <courtneydenise123@gmail.com> wrote:

Hi Matthew

Please see the thread below. Looks like they are saying I should contact you and get a waiver from FSSA.

You may also seek a post-employment waiver from FSSA. Such a waiver would need to be granted by FSSA's Appointing Authority, Mitch Roob, and then filed and presented to the 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 FSSA's Ethics Officer, Matthew Gerber, should you wish to pursue such a waiver.

Let me know when you have a chance to chat.

Thank you

Courtney Penn

----- Forwarded message -----

From: **Vullmahn, Elaine** <EVullmahn@ig.in.gov>

Date: Mon, Jan 27, 2025 at 2:13 PM

Subject: Ethics Informal Advisory Opinion, Penn, FSSA, Post-Employment
To: Courtney Penn <courtneydenise123@gmail.com>

Courtney,

Thank you for contacting the Indiana Office of Inspector General (OIG) for confidential ethics advice and for providing additional information.

You explain that you worked as the Director of the Office of Early Childhood and Out of School Learning (Director). The new leadership with the Indiana Family of Social Services Administration (FSSA) did not retain you, and your employment with the State ended on January 10, 2025. In your FSSA role, you oversaw childcare and out of school learning programming in Indiana, including childcare development fund vouchers for children and families.

You write that KinderCare Learning Company, the corporate company, not a KinderCare childcare center, is interested in offering you the position of Government Relations Representative-Midwest. In the Government Relations role, you would support the overall government affairs team at the corporate company to advocate for the needs of childcare programs across nine states in the Midwest. You would write bill summaries and analyses to see the impact they may have on the goals of the company; develop policies and practices strategies to support the childcare work of each of those nine states; write memos and talking points as needed for the government relations team; and communicate with internal and external partners. You might work at times with the KinderCare Learning Company lobbyists. You state you would not supervise anyone or have any authority over any work for the company because this is a support staff role.

You provide that you would not work on FSSA matters in your prospective role with KinderCare. The Government Relations role would focus more on early care and educational needs in general and not the work of FSSA specifically. You also write that there could be some minimal overlap of the early care and education work as it impacts childcare in general.

You write in your FSSA role that you did not have any day-to-day interactions with KinderCare Learning Company. You state FSSA gives KinderCare childcare centers in Indiana Child Care Development Fund (CCDF) funding for children who receive CCDF vouchers to pay for their child/children's care. You further state those vouchers are distributed to the family if the family is eligible and the families can take those vouchers to any childcare center. FSSA does not require families to use any specific childcare provider.

You state that you have not personally been involved in the licensing or regulatory process and that such occurs within licensing consultants and regional managers. You also write that FSSA regulates KinderCare childcare centers. Additionally, you explain that your signature was used on the licenses. You state you did not personally regulate childcare programs or submit them for approval to be licensees. The actual approval of licenses happened with the licensing consultants and regional managers on the team. They clicked a button in the system that auto generated a license with your signature. You state you were unaware of who was receiving said licenses as the system generated them and you did not. You provide that FSSA does not have any contacts with KinderCare Learning Company.

You ask about the post-employment provisions from the Indiana State Code of Ethics (Code). Your inquiry primarily invokes consideration of the following Code rules: IC 4-2-6-11, the post-employment 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 post-employment rule (IC 4-2-6-11) consists of two main limitations analyzed below: a “cooling off” period and a particular matter restriction.

A. The “cooling off” period

The first prohibition, commonly referred to as the cooling off or revolving door period, prevents a state employee from accepting employment: (1) as a lobbyist, (2) from an employer with whom the employee was engaged in the negotiation or administration of a contract on behalf of any state agency and was 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 the employee 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 the state employee leaves state employment.

Subsection (2) prohibits a state employee from working for an employer if he or she both (a) negotiated or administered a contract with the employer, and (b) was in a position to make a discretionary decision involving the negotiation or administration of the contract with the employer. You state that FSSA does not have any contracts with KinderCare Learning Company; therefore, this subsection would not present a problem for you.

Subsection (1) of the rule may apply to your post-employment opportunity. 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 write that in the position of Government Relations Representative-Midwest that you would write memos and talking points as needed for the government relations team and communicate with internal and external partners. You also might work at times with the KinderCare Learning Company lobbyists. We encourage you to carefully review [IDOA’s Executive Branch Lobbying Manual](#) to learn about the types of interactions with members of the executive branch, including FSSA, that are considered executive branch lobbying. If you have any questions about the executive branch lobbyist rules, we also encourage you to contact IDOA’s Executive Branch Lobbying Director. You can find contact information at IDOA’s website: [Contact Executive Branch Lobbying](#). **So long as you do not engage in interactions that would be considered executive branch lobbying in your KinderCare Learning Company role for 365 days from when you leave state employment, you will not violate this provision.**

Subsection (3) of the rule may also apply to your post-employment opportunity.

Subsection (3) prohibits a state employee from accepting employment from an employer if he or she made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer. You write KinderCare Learning Company, the corporate company of KinderCare childcare centers, is interested in offering you a position. You state FSSA regulates KinderCare childcare centers and that your signature was used on the licenses. Based on KinderCare Learning Company being a parent entity and your signature being affixed to licenses FSSA issued to KinderCare childcare centers, the State Ethics Commission (Commission) will very likely find that you are prohibited from receiving compensation from KinderCare Learning Company for at least 365 days after your separation from state employment.

We recommend you seek a formal advisory opinion from the Commission to get a public and final determination on this matter should you wish to accept employment with KinderCare Learning Company prior to one year after your separation from state employment. 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 February 13, 2025, and your request for the Commission’s formal advisory opinion must be received by February 3, 2025, for consideration at the next meeting.

You may also seek a post-employment waiver from FSSA. Such a waiver would need to be granted by FSSA’s Appointing Authority, Mitch Roob, and then filed and presented

to the 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 FSSA's Ethics Officer, Matthew Gerber, should you wish to pursue such a waiver.

We note that the Commission does not issue formal advisory opinions or approve post-employment waivers after an individual has started working for a new employer; therefore, if you decide to seek a formal advisory opinion or post-employment waiver, we note that you must do so prior to starting work at KinderCare Learning Company.

C. The particular matter restriction

The next prohibition, commonly referred to as the "particular matter" restriction, prevents a state employee from working on the twelve types of matters listed in IC 4-2-6-11(a) if he or she 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 KinderCare Learning Company or any other person in any particular matter in which you personally and substantially participated as a state employee.

You write that you would not work on FSSA matters if you accepted a position with KinderCare Learning Company. The Government Relations role would focus more on early care and educational needs in general and not the work of FSSA specifically. You also write that there could be some minimal overlap of the early care and education work as it impacts childcare in general. Therefore, it does not appear that the particular matter restriction will restrict your proposed scope of work at KinderCare Learning Company. 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.

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

Finally, you should be aware that you are prohibited 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. As long as any compensation you receive from KinderCare Learning Company does not result from information of a confidential nature that you learned while employed by the State, such post-state employment will 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 positions you have held with the State. To the extent that you possess information of a confidential nature by virtue of your state employment that could be used to benefit KinderCare Learning Company or any person, you would need to ensure you comply with these rules.

IN CONCLUSION, based on the information you provided, the Code would prohibit you from beginning employment with KinderCare Learning Company prior to 365 days after leaving State employment. We recommend you seek a post-employment waiver from FSSA's Appointing Authority or request the Commission's formal advisory opinion if you wish to begin employment during the cooling off period. Additionally, you should be aware of other relevant Code rules as noted 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 4-2-6-6 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: Courtney Penn <courtneydenise123@gmail.com>
Sent: Thursday, January 23, 2025 12:22 PM
To: Vullmahn, Elaine <EVullmahn@ig.IN.gov>
Subject: Re: 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.

Thank you for your response. I have added my responses below in bold. I hope they are helpful.

Thank you again

Courtney Penn

On Thu, Jan 23, 2025 at 8:49 AM Vullmahn, Elaine <EVullmahn@ig.in.gov> wrote:

Hello Courtney,

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:

- In your role at Family and Social Services Administration (FSSA):
 - Explain the interactions you have had, if any, with KinderCare Learning Company and describe the issues you have worked on related to KinderCare Learning Company. **I did not have any day to day interactions with KinderCare Learning Group in my role. The center arm of the company worked directly with the licensing team members for the programs here in Indiana.**
 - Have you participated in any matters that affect KinderCare Learning Company or KinderCare Learning Company's financial interests? If so, explain. **FSSA gives their centers in Indiana CCDF funding to care for children who recieved CCDF vouchers to pay for their child/childrens care. But those vouchers are really distrubited to the family when the family is eligible and the families can take those vouchers to any child care. We dont require them to use any child care provider. That is their choice.**
 - Have you been involved in making any regulatory or licensing decisions regarding KinderCare Learning Company or its parent or any subsidiary? If so, explain. **No I have not personally been involved in their licensure or regualtory process. That happens with licensing consultants and regional managers.**
 - Does FSSA maintain any contracts with KinderCare Learning Company? If so, what, if any, was your involvement in negotiating or administering the contract(s)? **No FSSA doesnt have any contract with them.**
- In your prospective post-employment with KinderCare Learning Company:
 - What would your title and duties be? **Government Relations Representative -Midwest is the title. I would be supporting corporate KinderCare Learning Group with supporting the overall government affairs team at the company to advocate for the needs of the child care programs accross 9 states in the midwest. I would be doing bill summaries and analysis to see the impact they may have on the goals of the company. Develop polices and practices to support strategies that support the child care work of each of those 9 states. Communicate with internal and external partners. Complete reports and share legistiative information as needed with the team. Writing memos and talking points as needed for government relations team. I will not supervise anyone or have any authority over any work for the company. I will be working in a support staff role.**
 - Would you engage in lobbying activities? If so, explain. **I might work at times with the KinderCare Learning Group lobiest sometiemis but they have a lobbieist. This role isnt that.**
 - Would you work on any matters related to FSSA? If so, explain. **I would not work on FSSA matters. It would be more early care and education needs in general not the work of FSSA specifically.**

- Would you be working with any State of Indiana agency? If so, explain. **No I would not.**
- Would you work on any matters that you previously worked on in your position at FSSA? If so, explain. **No. This work will be supporting early care and education work in a different capacity. In my previous work I represented the work as a leader of the work. This is not the same. There could be some minimal overlap of the early care and education work as it impacts child care in general, but it would not be like I did when I worked for the state. It would be no more impactful than what I could do now as an American citizen. I will have no authority or direct work with the state in this new role. And Indiana will be 1 of 9 states that I will support in this role.**
-

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.

Best,

Elaine

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

From: noreply@engage.in.gov <noreply@engage.in.gov>

Sent: Wednesday, January 22, 2025 12:30 PM

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

Subject: Form Submission - Advice

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FORM DETAILS

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First Name: Courtney

Last Name: Penn

Email: courtneydenise123@gmail.com

Phone: (317) 501-2767

State Agency: FSSA

Description of Your State Occupation: I was working for the state as the Director of the Office of Early Childhood and Out of School Learning. I was not retained with the new administration for FSSA. My last day with the state was Friday January 10th. I am currently looking for work in my field of Early care and education that can pay me a salary that I can survive on after being displaced. In my role at FSSA I oversaw child care and out of school learning programming in Indiana including child care development fund vouchers for children and families in Indiana.

What is your ethics question? The corporate company of Kinder Care interesting in offering me a position with them where I will support their government facing work as it pertains to working with elected officials to support the needs of their child care programs. This position would be with the KinderCare Learning Company corporate, not the KinderCare child care centers. The centers have their own tax identification information for each site. My question is am I am to receive a waiver to work for KinderCare given the fact that I did not have any contracts with KinderCare and the licenses that KinderCare child care programs receive in our state are regulated overall by the office of the secretary at FSSA's authority. My signature was used on licenses based on me being a designee for the secretary who had the true authority for licenses and subsidy work. I did not personally regulate child care programs or submit them for approval to be licensed. The actual approval of licenses happened with the licensing consultants and regional managers on the team. They clicked a button in a system that auto generated a license with my signature. I was unaware of who was receiving said licenses as the system generated them not me.

--

Mrs. Penn

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Mrs. Penn

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Mrs. Penn



Mike Braun, Governor
State of Indiana

Indiana Family and Social Services Administration
Office of General Counsel

402 W. WASHINGTON ST., ROOM W451, MS27
INDIANAPOLIS, IN 46204-2744

SENT VIA EMAIL

February 3, 2025

Chairwoman Katherine Noel
Indiana Ethics Commission
315 West Ohio Street, Suite 104
Indianapolis, Indiana 46204

RE: Jennifer Royer

Chairwoman Katherine Noel and Commission Members:

I am writing on behalf of Jennifer Royer, Quality Improvement Reviewer for the Division of Mental Health and Addictions (“DMHA”) of Indiana’s Family and Social Services Administration (“FSSA”). In her current position, Ms. Royer reviews addiction providers as well as community mental health centers across Indiana. Her duties include reviewing policies and consumer charts for compliance with the Indiana administrative code. Each provider is assigned a lead reviewer, who is their main contact with DMHA and who sends out notices, draft reports, preps for review, and monitors remediation activities. Ms. Royer was assigned the lead reviewer for Aspire Indiana Health’s 2024 and 2025 reviews. All reviews and reports are reviewed by additional team members. Although Ms. Royer reviewed Aspire Health Indiana for compliance, she did not manage or make any final determinations as to corrective action plans, and did not enforce those determinations.

Ms. Royer has been offered the position of Accreditation and Licensure Specialist with Aspire Indiana Health. In that position she would assist the compliance director in preparing reviews and would assist in the remediation of any corrective actions found to be needed. Her role would not include executive branch lobbying.

Ms. Royer further understands that because she participated in DMHA’s reviews of Aspire Indiana Health in 2024 and 2025, the Ethics Code’s Post Employment Restrictions would prohibit her from representing or assisting Aspire Indiana Health in those particular matters even if she receives no compensation or the representation or assistance, pursuant to 42 IAC 1-5-14.



Ms. Royer seeks a formal advisory opinion from the Ethics Commission regarding whether the Ethics Code's Post Employment Restrictions would prohibit her from accepting employment with Aspire Indiana Health, specifically whether she would be prohibited from accepting same less than 365 days from leaving state employment, pursuant to 42 IAC 1-5-14.

Cordially,

A handwritten signature in blue ink, appearing to read 'M. Gerber', with a stylized flourish at the end.

Matthew A. Gerber
Deputy General Counsel & Ethics Officer

MAG/dl

From: [Royer, Jennifer R](#)
To: [Gerber, Matthew](#)
Subject: FW: Ethics Informal Advisory Opinion, Royer, FSSA, Post-Employment
Date: Friday, January 31, 2025 10:59:44 AM

Jennifer Royer
Quality Improvement Reviewer
Division of Mental Health and Addiction
Family and Social Services Administration
402 West Washington Street
Indianapolis, IN 46204
Cell:317-430-4533
Jennifer.royer@fssa.in.gov

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From: Vullmahn, Elaine <EVullmahn@ig.IN.gov>
Sent: Friday, January 24, 2025 3:29 PM
To: Royer, Jennifer R <Jennifer.Royer@fssa.IN.gov>
Subject: Ethics Informal Advisory Opinion, Royer, FSSA, Post-Employment

Jennifer,

Thank you for contacting the Indiana Office of Inspector General (OIG) for confidential ethics advice and for providing additional information. We understand that you serve as a Quality Improvement Reviewer on the clinical Quality Assurance/Quality Improvement team of the Division of Mental Health and Addition (DMHA) within the Indiana Family and Social Services Administration (FSSA).

In your role at FSSA, you review all addiction providers and Community Mental Health Centers (CMHCs) for compliance with Indiana Administrative Code. You review agency charts and policy information and complete a report with all findings found to be under 85% compliance. You also monitor ongoing remediation activities at the agency to ensure they are completed.

You explain that you have applied for an Accreditation and Licensure Specialist position at Aspire Indiana (Aspire), which is a CMHC and your previous employer. Although unsure of all the duties, you write you would monitor for internal compliance of code and contracts

within FSSA. You could also work on remediation activities of issues found during the DMHA 2025 review. You state you would not engage in lobbying activities.

You provide that in your FSSA role, you served as the lead reviewer in both the 2024 and 2025 clinical quality assurance reviews of Aspire. For an agency like Aspire, reports created when a CMHC is found to be under 85% compliance go to the agency's director of Quality and CEO. The agency then has 30 days to complete a corrective action plan for how they will address each of the findings. If a CMHC fails to fulfill the corrective action plan, DMHA can make the agency staff attend trainings led by your team. There are no fines or financial penalties associated. Your team at FSSA has the ability to put agencies on a conditional status, meaning the agency would not be allowed new admissions until a corrective action plan is approved, then they are re-reviewed within 180 days. If the agency does not fulfill remediation during that time, DMHA can terminate certification; however, this is not done for CMHCs. Per the DMHA director, putting a CMHC on a conditional status is not something DMHA will pursue due to the potential effects it could have on the community it serves.

You state you have not participated in any matters that affect Aspire's financial interests. You further state that you review for compliance but do not manage any of FSSA's licensing decisions. You believe FSSA has a Substance Use Disorder (SUD) block grant with Aspire, although you have no role in that contract.

You are seeking advice on how the Code of Ethics (Code) would apply to your potential job with Aspire. 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 post-employment rule (IC 4-2-6-11) consists of two main limitations analyzed below: a "cooling off" period and a particular matter restriction. Furthermore, this rule prohibits a state employee from accepting employment if it has been offered to influence the employee in his or her official capacity as a state employee.

A. Employment/compensation offer in exchange for influence on state duties

Under this section of the post-employment rule, a state employee is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence him or her in his or her official capacity as a state employee. So long as your prospective position with Aspire is not offered in an attempt to influence you in your FSSA role, your post-employment opportunity would not be in violation of this part of the rule.

B. The "cooling off" period

The next prohibition, commonly referred to as the cooling off or revolving door period, prevents a state employee from accepting employment: (1) as a lobbyist, (2) from an employer with whom the employee was engaged in the negotiation or administration of a contract on behalf of any state agency and was 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 the employee 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 the state employee leaves 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 write that you do not plan on engaging in lobbying in your potential role with Aspire; therefore, this provision likely will not present an issue for you. We encourage you to carefully review [IDOA’s Executive Branch Lobbying Manual](#) to learn about the types of interactions with members of the executive branch, including FSSA, that are considered executive branch lobbying. If you have any questions about the executive branch lobbyist rules, we also encourage you to contact IDOA’s Executive Branch Lobbying Director. You can find contact information at IDOA’s website: [Contact Executive Branch Lobbying](#).

Subsection (2) prohibits a state employee from working for an employer if he or she both (a) negotiated or administered a contract with the employer and (b) was in a position to make a discretionary decision involving the negotiation or administration of the contract with the employer. You state that you have not negotiated or administered a contract with Aspire or been in a position to make discretionary decisions regarding any contract with Aspire while working for the State; therefore, this provision would not prohibit you from working for Aspire immediately upon leaving FSSA.

Subsection (3) prohibits a state employee from accepting employment from an employer if he or she made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer. You write that you have not made any licensing decisions regarding Aspire, but you have been involved in compliance reviews, which may be considered regulatory decisions; therefore, subsection (3) likely would prohibit you from beginning employment with Aspire within one-year upon leaving FSSA.

As a result, should you decide to accept a position with Aspire, we recommend you seek a post-employment waiver from your appointing authority, FSSA’s Secretary. Your appointing authority will need to file and present the waiver to the 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).

You also have the option to seek a Formal Advisory Opinion from the Commission to get a public and final determination on your post-employment opportunity with Aspire. You can find instructions for submitting a request for a formal advisory opinion from the Commission on our [website](#). The requirements for a post-employment waiver are set out in IC 4-2-6-11(g). We recommend that you consult with FSSA’s Ethics Officer, Matthew Gerber, should you wish to pursue such a waiver.

The next meeting at which the Commission can consider the matter is February 13, 2025, and your request for the Commission’s formal advisory opinion or review of a post-employment waiver must be received by February 3, 2025, for consideration at the next meeting.

We note that the Commission does not issue formal advisory opinions or approve post-employment waivers after an individual has started working for a new employer; therefore, if you decide to seek a formal advisory opinion or post-employment waiver, you must do so prior to starting work for Aspire.

C. The particular matter restriction

The next prohibition, commonly referred to as the “particular matter” restriction, prevents a state employee from working on the twelve types of matters listed in IC 4-2-6-11(a) if he or she 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 Aspire or any other person in any particular matter in which you personally and substantially participated as a state employee.

You state that as an FSSA employee you served as the lead reviewer in both DMHA’s 2024 and 2025 clinical quality assurance reviews of Aspire. **Based on the information you provided, the State Ethics Commission (Commission) would very likely find that your work on FSSA’s 2024 and 2025 clinical quality assurance reviews of Aspire constitutes personal and substantial participation. As such the particular matter restriction would prohibit you from representing or assisting Aspire, any of their clients or any other person on FSSA’s 2024 and 2025 clinical quality assurance reviews of Aspire or any other particular matter in which you personally and substantially participated while with the State for the entire life of the matter at issue.** You are, however, permitted to assist Aspire with matters in which you were not personally and substantially involved while with the State and with any new matters, such as new clinical quality assurance reviews.

Please note that you have the option to seek a formal advisory opinion or request a post-employment waiver on the particular matter restriction, as well as the cooling off provision. 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.

Should you still wish to represent or assist Aspire with remediation activities of issues found during the DMHA 2024 or 2025 reviews, we strongly recommend that you seek a formal advisory opinion or request a post-employment waiver on the particular matter restriction provision. Please let us know if you have questions regarding either of these options.

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

During the remainder of your time with FSSA, 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. You state that you have just applied to an Aspire job posting. Based on the information you provided, you are not yet negotiating employment with Aspire at this time; therefore, this rule should not yet present a problem for you. If you complete an interview with Aspire, then employment negotiations have begun for purposes of this rule, and you are prohibited from participating in any decisions, votes or matters related to decisions or votes in which Aspire would have a financial interest in the outcome.

In your role at FSSA, you have engaged in compliance reviews of Aspire. As such, if you begin employment negotiations with Aspire, you likely will have a potential conflict of interests. If this should occur during the remainder of your state employment, please note that mere recusal from that matter in which Aspire has a financial interest is not enough. The rule also requires that you notify FSSA's Appointing Authority and Ethics Officer 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.

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

Finally, you should be aware that you are prohibited 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. As long as any compensation you receive from Aspire does not result from information of a confidential nature that you learned while employed by the State, such post-state employment will 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 positions you have held with the State. To the extent that you possess information of a confidential nature by virtue of your state employment that could be used to benefit Aspire or any person, you would need to ensure you comply with these rules.

IN CONCLUSION, based on the information you provided, the Code likely would prohibit you from accepting a position with Aspire within one year of leaving state employment. It also would prohibit you from working on specific DMHA clinical quality assurance reviews on which you personally and substantially participated while with the State. We recommend you seek a post-employment waiver from FSSA's Appointing Authority if you wish to work for Aspire. Additionally, you should be aware of other relevant Code rules as noted 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: Royer, Jennifer R <Jennifer.Royer@fssa.IN.gov>

Sent: Friday, January 24, 2025 3:09 PM

To: Vullmahn, Elaine <EVullmahn@ig.IN.gov>

Subject: RE: Form Submission - Advice

Hi Elaine,

I am following up. Did you have any clarification on this?

Jennifer Royer

Quality Improvement Reviewer

Division of Mental Health and Addiction

Family and Social Services Administration

402 West Washington Street

Indianapolis, IN 46204

Cell:317-430-4533

Jennifer.royer@fssa.in.gov

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From: Vullmahn, Elaine <EVullmahn@ig.IN.gov>

Sent: Thursday, January 23, 2025 2:17 PM

To: Royer, Jennifer R <Jennifer.Royer@fssa.IN.gov>

Subject: RE: Form Submission - Advice

Jennifer,

One more quick question – please can you explain what happens when you complete a report with findings found to be under 85% compliance? Who does the report go to? What happens to the CMHC (e.g., probation, fine, etc.)?

Thank you!
Elaine

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

From: Royer, Jennifer R <Jennifer.Royer@fssa.IN.gov>
Sent: Thursday, January 23, 2025 9:49 AM
To: Vullmahn, Elaine <EVullmahn@ig.IN.gov>
Subject: RE: Form Submission - Advice

QA/QI- Quality assurance/quality improvement
SUD-Substance use disorder

Jennifer Royer
Quality Improvement Reviewer
Division of Mental Health and Addiction
Family and Social Services Administration
402 West Washington Street
Indianapolis, IN 46204
Cell:317-430-4533
Jennifer.royer@fssa.in.gov

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From: Vullmahn, Elaine <EVullmahn@ig.IN.gov>
Sent: Thursday, January 23, 2025 9:40 AM
To: Royer, Jennifer R <Jennifer.Royer@fssa.IN.gov>
Subject: RE: Form Submission - Advice

Jennifer,

Thank you for the additional information. Couple quick follow-up questions:

- What does QA/QI stand for?
- Likewise, what does SUD stand for?

Best,
Elaine

Elaine Vullmahn

Senior Attorney
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
Office: (317) 233-3767
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From: Royer, Jennifer R <Jennifer.Royer@fssa.IN.gov>

Sent: Thursday, January 23, 2025 9:27 AM

To: Vullmahn, Elaine <EVullmahn@ig.IN.gov>

Subject: RE: Form Submission - Advice

Elaine,

Thank you for your quick response. My answers in below in red. Please let me know if you have other questions.

- What is your role at Indiana Family and Social Services (FSSA)? Briefly describe your

job duties.

-I review all addiction providers and CMHC's for compliance of Indiana Administrative Code. I review charts and policy information from these agencies and complete a report with all findings found to be under 85% compliance. I monitor ongoing remediation activities at the agency to ensure they are completed.

- What does CMHC stand for?

Community Mental Health Center

- Is there a specific CMHC that you are interested in or seeking employment at? If yes, please also describe where you are at in the process (applied, interview, offer, etc.).

I have applied to a position at Aspire Indiana (my previous employer).

- Do you anticipate that you would leave FSSA employment, or would you serve as both a FSSA employee and work at a CMHC at the same time?

I would anticipate leaving FSSA employment.

- In your role at FSSA:

Quality Improvement Reviewer on the clinical QA/QI team.

***If there is a specific CMHC you are interested or seeking employment, then please responded to the following questions as it relates to that specific CMHC. Otherwise, please respond as it relates generally to CMHCs.**

- Explain the interactions you have had, if any, with CMHCs and describe the issues you have worked on related to CMHCs.

I was the lead reviewer in both the 2024 and 2025 clinical QA reviews.

- Do you or have you participated in any matters that affect CMHCs or CMHC's financial interests? If so, explain.

No

- Have you been involved in making any regulatory or licensing decisions regarding CMHCs or of their parents or any subsidiary? If so, explain.

I review for compliance but do not manage any licensing decisions.

- Does FSSA maintain any contracts with CMHCs? If so, what, if any, was your involvement in negotiating or administering the contract(s)?

I believe this agency has a SUD block grant contract with FSSA. I have no role in that contract.

- In your prospective post-employment with a CMHC:

- What would your role and duties be?

Unsure of all duties. Role was for Accreditation and Licensure Specialist.

- Would you engage in lobbying activities? If so, explain.

no

- Would you work on any matters related to FSSA? If so, explain.

Unclear from job description. I would monitor for internal compliance of code and contracts within the agency.

- Would you be working with any state agency? If so, explain.

No

- Would you work on any matters that you previously worked on in your position at FSSA? If so, explain.

Unsure, but could potentially work on remediation activities found during the DMHA 2025 review.

Jennifer Royer
Quality Improvement Reviewer
Division of Mental Health and Addiction
Family and Social Services Administration
402 West Washington Street
Indianapolis, IN 46204
Cell:317-430-4533
Jennifer.royer@fssa.in.gov

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From: Vullmahn, Elaine <EVullmahn@ig.IN.gov>
Sent: Thursday, January 23, 2025 9:16 AM
To: Royer, Jennifer R <Jennifer.Royer@fssa.IN.gov>
Subject: RE: Form Submission - Advice

Hello Jennifer,

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:

- What is your role at Indiana Family and Social Services (FSSA)? Briefly describe your job duties.
- What does CMHC stand for?
- Is there a specific CMHC that you are interested in or seeking employment at? If yes, please also describe where you are at in the process (applied, interview, offer, etc.).

Do you anticipate that you would leave FSSA employment, or would you serve as both a FSSA employee and work at a CMHC at the same time?

- In your role at FSSA:

***If there is a specific CMHC you are interested or seeking employment, then please responded to the following questions as it relates to that specific CMHC. Otherwise, please respond as it relates generally to CMHCs.**

- Explain the interactions you have had, if any, with CMHCs and describe the issues you have worked on related to CMHCs.
- Do you or have you participated in any matters that affect CMHCs or CMHC's financial interests? If so, explain.
- Have you been involved in making any regulatory or licensing decisions regarding CMHCs or of their parents or any subsidiary? If so, explain.
- Does FSSA maintain any contracts with CMHCs? If so, what, if any, was your involvement in negotiating or administering the contract(s)?
- In your prospective post-employment with a CMHC:
 - What would your role and duties be?
 - Would you engage in lobbying activities? If so, explain.
 - Would you work on any matters related to FSSA? If so, explain.
 - Would you be working with any state agency? If so, explain.
 - Would you work on any matters that you previously worked on in your position at FSSA? If so, explain.

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.

Best,
Elaine

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

From: noreply@engage.in.gov <noreply@engage.in.gov>

Sent: Thursday, January 23, 2025 7:47 AM

To: IG Info <info@ig.IN.gov>; Mulligan, Tiffany M <TMulligan@ig.IN.gov>; Cook, David (IG) <DaCook@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: Jennifer

Last Name: Royer

Email: jennifer.royer@fssa.in.gov

Phone: (765) 376-8938

State Agency: DMHA

Description of Your State Occupation: Quality improvement reviewer. I review addiction providers and CMHC's for compliance of IAC.

What is your ethics question? Is it allowed to accept a position at a CMHC I have reviewed?

From: [Royer, Jennifer R](#)
To: [Gerber, Matthew](#)
Subject: Ethics Commission
Date: Saturday, February 1, 2025 8:37:40 AM
Attachments: [Jennifer Royer Letter.pdf](#)
[current role and new role duties.docx](#)

Matthew,

I would like you to move forward on my behalf with the formal inspector general office regarding my ability to accept a position at Aspire Indiana Health. I authorize you to release the informal request information to the ethics commission. I have attached a letter from Aspire stating that I will have no part in any DMHA matters that I have participated in. Please let know if this needs to be changed or any other information added. I have also attached a brief description of my current role and the role I would be taking at Aspire.

Please let know the next steps or if you need any other information.
Thank you for all your assistance.

Jennifer Royer
Quality Improvement Reviewer
Division of Mental Health and Addiction
Family and Social Services Administration
402 West Washington Street
Indianapolis, IN 46204
Cell:317-430-4533
Jennifer.royer@fssa.in.gov

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STATE OF INDIANA) INDIANA STATE ETHICS COMMISSION
) SS:
COUNTY OF MARION) CASE NO: 2024-01-0030

IN RE THE MATTER OF REBECCA HONN
RESPONDENT

FILED
JAN 09 2025
INDIANA STATE
ETHICS COMMISSION

MOTION IN LIMINE TO EXCLUDE WITNESSES AND EXHIBITS
AND TO SEEK SUMMARY OF TESTIMONY AND/OR PURPOSE
OF WITNESSES AND EXHIBITS

COMES NOW, the Inspector General David Cook (OIG), by counsel, Chief Legal Counsel, Tiffany Mulligan, and hereby files the OIG’s Motion In Limine to Exclude Witnesses and Exhibits and To Seek Summary of Testimony and/or Purpose of Witnesses and Exhibits in the above referenced matter, and in support thereof states the following:

1. A public hearing is currently scheduled on March 13, 2025, to consider the OIG’s Ethics Complaint in the above referenced matter.
2. The Ethics Complaint alleges that Respondent violated Ind. Code §4-2-6-11(b)(3), the Indiana Code of Ethics’ post-employment rule’s cooling-off provision; 42 IAC 1-5-10, the benefitting from confidential information rule; and 42 IAC 1-5-11, the divulging confidential information rule. These are the only issues before the Commission at the March 13, 2025, public hearing.
3. Pursuant to Ind. Code §4-2-6-4(2), the Commission’s jurisdiction is limited to hearing complaints alleging a violation of Ind. Code 4-2-6, Ind. Code 4-2-7, Ind. Code 4-2-8 or a rule adopted under any of these chapters. The Commission does not have jurisdiction to hear complaints involving disciplinary actions taken against an employee.
4. The OIG received Respondent’s Witness and Exhibit List on Monday, January 6, 2025. The List includes thirty-seven (37) witnesses and over thirty (30) exhibits.

5. The OIG's position is that the following Respondent's witnesses do not have relevant testimony on the issues before the Commission and should be excluded (as listed in the Respondent's Witness List):

- a. Darrell Gorden, CEO Wernle
- b. Brittney McGuire, previous Quality Assurance, Wernle
- c. Andrea Hoffman, Residential Licensing Specialist (quit 2023)
- d. Robin Andrade, Residential Licensing Specialist (retired Feb. 2023)
- e. Whitney Vowels, DCS Residential Licensing Program Manager (left late summer 2022)
- f. Jenni Beyersdorfer, Residential Licensing Specialist (asked to miss doctor's appointment during high-risk pregnancy in her last month, written up for lack of urgency even though she finished the work after the appointment)
- g. David Reed, Deputy Director of Child Welfare Services
- h. Dandi Anderson, previous supervisor with the Department of Child Services
- i. Ed Graf, CEO Gateway Woods (Ms. Byrne accused Gateway Woods of Falsifying documents)
- j. Ruth Soberalski, previous Clinical Specialist (quit and complained about Ms. Byrne)
- k. Rosemary Parke, previous Clinical Specialist (quit and complained about Ms. Byrne)
- l. Dr. Mark Souder
- m. Dentist from Afdent
- n. Sean McCrindle, CEO Basher
- o. Brett Honn

6. The OIG also respectfully requests that the Commission exclude the following exhibits as not relevant to the issues before the Commission (as listed in the Respondent's Exhibit List):

- a. Dentist information, progress notes and statement:
 - i. Chart Progress Notes 12-28-2023 Rebecca "Becky" A. Honn – A0C14
 - ii. Chart Progress Notes 11/21/2023 Rebecca "Becky" A. Honn – AOC13
 - iii. Chart Progress Notes Rebecca "Becky" A. Honn – 2-06-2024 – AOC14
 - iv. AFDENT Bridge Estimate Statement 11-16-2023
- b. Code of Conduct Cover Page – Specifically listed as an effective date of September 1, 2023
- c. Email of October 20, 2023 to Kimberly Pierson regarding Concerns to Human Resources
- d. E-mail of October 20, 2023 to SPD Employee Relations
- e. Star Newspaper Article regarding child services managers – kpcnews.com
- f. Article October 3, 2021 Butler man arrested for multiple sex crimes against minors
- g. Emails concerning requests for time off and to travel out of state and remote log information

- h. Filing of December 18, 2023 regarding the State Employees Appeals Commission
- i. Article Food won out, but evil still lurks here regarding Jason Schwartz trail who was found guilty of committing ten (10) sex crimes, Betsy Honn played a critical role and was a key witness in the case and was commended in the
- j. Article There were Warning Signs of Sexual Abuse at Youth Center. Indian Kept Sending Boys and Money Anyway – Article ProPublica November 28, 202 by Troy Cook IndyStar and Emily Hopkins ProPublica Co published with Indy Star
- k. The attached 2023 annual audit for Pierceton Woods
- l. Report sent to Pierceton Woods with changes made by Crystal Byrne
- m. November 17, 2024 letter from David Reed
- n. Medical Record of Rebecca A.
- o. Honn detailing stress and difficulty that work was causing her
- p. Recommendation letters
 - i. PJ Corwin Executive Director Youth Service Bureau
 - ii. Sean McCrindle, President and CEO Bashor Children’s Home
 - iii. Michael Deaneck with Bashor
 - iv. Shirley Ruan Crossroad
 - v. Randall Rider M.S. LMFT
 - vi. Edward Graf Gatewood Woods
 - vii. Executive Director
 - viii. Jeff Waibel, EdD, LSW
 - ix. Gateway Woods Family Service, Inc.
 - x. Sandi Anderson former Case Manager Supervisor Dekalb County Indiana
 - xi. Ruth Sobieralski LCW-s Travis County Juvenile County Probation
 - xii. Brandy Mitchell Youth Services Center
 - xiii. Patrick Hunnicutt MSA LSW Stoe Stone Youth and Family Services
 - xiv. Kristine DeGabriele Attorney for Indiana DCS
 - xv. Angel Metro Chief Administrative Office former DCS employee
- q. Any and all Pierceton Woods reports

7. The Respondent’s Witness and Exhibit List also includes several witnesses and exhibits for which the Respondent has failed to provide sufficient information to determine whether they fall within the scope of the Ethics Complaint or State Ethics Commission’s jurisdiction.

8. As such, the OIG respectfully requests that the Commission order Respondent to submit a summary of the testimony for the following witnesses prior to the February 13, 2025 scheduled hearing on the Motion in Limine:

- a. Abe Helper, VP, Pierceton Woods Academy
- b. Kim Alfuerheide, Residential Licensing Specialist
- c. Brandy Mitchell, LCPA Licensing Specialist
- d. Rick Steigerwalt, Supervisor Residential Licensing Specialist

- e. Maxine Russell, DCS Attorney
- f. Bethany Nine-Lawson, DCS Attorney
- g. Nicci Chenowith, LCPA Licensing Supervisor
- h. Jeremy Wells, Residential Licensing Specialist and previous coworker DeKalb County
- i. Jackie Stephens, Institutional Neglect Case Manager Supervisor DCS
- j. Haley Kittrell, previous Institutional Neglect Case Manager/Investigator now Marshall County Supervisor
- k. Shailja, Residential Licensing Specialist current
- l. Rick Stengelwright

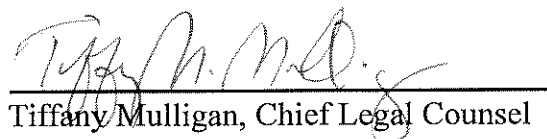
9. The OIG also respectfully requests that the Commission order Respondent to submit a summary of the purpose of the exhibit for the following exhibits:

- a. Ethic Point SecuraFile report 313335637501
- b. Indiana State Workforce Development – Rebecca A Honn letter 11-16-2023
- c. Event timeline sheet prepared by Honn from 03/2023 to 10-26-2013
- d. Honn email from December 5, 2023 – Tiffany Rawlings
- e. Honn notes October 23 through 25 2023
- f. August 2, 2023 From Jim Dalton email copied to Ashly R Prewitt and Crystal Byrne
- g. Teres Stuckey email to Becky Honn November 9, 2023
 - i. Email chain from multiple dates in November.....9.....12.....13....15

10. Furthermore, the Respondent lists “any and all witnesses proposed by DCS” and “any and all documents listed on the Exhibit list of DCS.” DCS is not a party to this matter.

WHEREFORE, the OIG respectfully requests the Commission exclude the witnesses and exhibits as listed above and order the Respondent to submit a summary of the testimony of witnesses or purpose of the exhibits as listed above.

Respectfully submitted,




Tiffany Mulligan, Chief Legal Counsel
Attorney No. 26518-49
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
(317) 232-3850
Tmulligan@ig.in.gov

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing “Motion to Compel Respondent to Submit Witness and Exhibit List” has been served upon the following individual by certified mail at the address listed below, this 9th day of January, 2025:

W. Erik Weber
Mefford and Weber, P.C.
130 East Seventh Street
Auburn, IN 46706-1839



Tiffany Mulligan, Chief Legal Counsel
Attorney No. 26518-49

STATE OF INDIANA)
)
COUNTY OF MARION)
)

INDIANA STATE ETHICS COMMISSION
CASE NO. 2024-01-0030

FILED
JAN 28 2025
INDIANA STATE
ETHICS COMMISSION

IN RE THE MATTER OF REBECCA HONN
RESPONDENT

**RESPONDENT’S OBJECTION TO THE MOTION IN LIMINE FILED BY THE
OFFICE OF INSPECTOR GENERAL**

Comes now the Respondent Rebecca Honn by Counsel W. Erik Weber and files this response and objection to the Motion in Limine filed by the Office of Inspector General of the State of Indiana as follows:

A “motion in limine” is a pretrial motion that is used to exclude specific evidence or arguments from being presented during a trial/hearing that may be prejudicial, irrelevant, or inadmissible or that may have some undue influence on the trier of fact or hinder the fair administration of justice. *Indiana State Police v. The Estate of Damore* (2022), 194 N.E.3d 1147, 1161).

The purpose of a motion in limine is to eliminate evidence that is clearly inadmissible for any purpose before trial. *Burrus v. Silhavy* (1973) 155 Ind.App. 558, 560).

Courts are cautioned to grant motion in limine only when the evidence is clearly inadmissible on all potential grounds. *Howard v. State* (2004) 816 N.E.2d 948, 960. In cases where that high standard cannot be met, evidentiary rulings should be deferred until trial so that question of foundation, relevance, and potential prejudice may be resolved. *Id.* A denial of a motion in limine does not mean that the hearing body will necessarily admit the evidence at trial, but rather

only means that the party presenting the evidence shall have the opportunity to proffer the relevance associated therewith. *Id.*

In the case at hand, there have been no interrogatories, no requests for production of documents or depositions requested by the Office of Inspector General (OIG). The Inspector General cites *Ind. Code 4-2-6 through 4-2-8* and emphasizes that the Commission does not have authority to hear disciplinary actions. The Respondent is not asking for a hearing on her disciplinary and or specific employment matters, other than to defend the allegations that she violated the law or policies of her employers and that she has violated the Statutes of the State of Indiana by committing an unethical act. She is facing sanction in this matter and should have broad discretion in what she presents in the limited time that is available to defend herself. The Respondent should be able to develop her reasoning for her actions by presenting witnesses and exhibits in her defense. To conclude the Respondent intends for this hearing to be a hearing about her specific employment is speculative. However, it should be noted that the acts that have occurred herein resulted from complaints from her employer and the investigation of the Office of Inspector General, who went into employment questions of specific witnesses in detail. Issues such as motivation, reasoning, and other related matters and even question about her professional abilities were opened up by the OIG in the investigation and Respondent has every right to list the witnesses and exhibits that she believes may have a relevant impact on the defense of her case as it is a matter of “*due process*”.

The witnesses that have been listed by the Respondent potentially help explain the actions taken by the Respondent and may assist the Respondent in defending herself against the charges.

The pre-trial orders of the Ethic's Commission did not limit the number of witnesses or exhibits that could be listed in this matter. The Respondent is aware of the number of witnesses and exhibits that have been listed and just because they are listed, does not mean that those individuals will be called or used at trial. The witnesses and exhibits only have the potential to be called to the stand and presented to the Commission. With the time limits imposed on the hearing, the Respondent will have to make choices, and there is no requirement to do that until the date of the hearing.

Had there been depositions, and more detailed discovery, the OIG could have explored and asked questions about those areas of concern and determined the relevance of any proposed witnesses and exhibits. The OIG chose not to do so.

The Respondent has a limited amount of time to make a case before the Commission. One day of trial time has been allocated and counsel for Respondent specifically stated that the Respondent would utilize only one-half day to present her case.

The more appropriate directive in this case is to control the matters by limiting the amount of time allotted for the presentation of evidence, rather than arbitrarily striking exhibits and witnesses. This is an administrative hearing and without full discovery by way of deposition, interrogatories, admissions, and depositions, a ruling that limits the witnesses and exhibits serves only to prematurely and prejudicially limit the case of the Respondent before she has the opportunity to explain and demonstrate why said evidence is relevant.

If the OIG desired summaries of witnesses' testimony and summaries or relevance to be provided, then the OIG should have asked that to be part of the previously Ordered Case Management Order.

Further, it should be noted that there is specifically an Order that allows until February 13, 2025, to complete discovery. If the OIG desires to learn more about these issues from Respondent, then a deposition is welcomed between now and February 13, 2025.

Respondent is being prosecuted and deserves the opportunity to defend herself against the sanctions that have been levied by the Office of Inspector General.

Further, OIG has failed in writing to supply supporting authority for said motion in limine. The OIG has failed to demonstrate that the OIG will face a risk of irreparable harm if the motion is not granted, in other words, why cannot the OIG rely on in-trial objections. The OIG has failed to indicate why they believe the targeted evidence will be inadmissible and what injury would be risked if an in-trial objection is utilized.

Wherefore, your Respondent herein requests the Commission deny the OIG's "Motion In Limine" and for all other relief that is just and proper herein.

Respectfully submitted,

/s/ W. Erik Weber
Attorney for Respondent
Rebecca Honn

W. Erik Weber
Atty. No 20694-02
Mefford and Weber, PC
Attorneys At Law
130 East Seventh Street
Auburn, Indiana 46706
260 925 2300 Ph.
erik@lawmwb.com

CERTIFICATE OF SERVICE

The undersigned certifies that a true and accurate of the foregoing Response to the OIG Motion In Limine has been served by electronic mail upon the OIG as follows this 28th day of January 2025 by electronic mail:

Tiffany Mulligan, Chief Legal Counsel
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indian 46202
Tmulligan@ig.in.gov

/s/ W. Erik Weber _____

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

INDIANA STATE ETHICS COMMISSION

CASE NO.: 2024-01-0030

IN RE THE MATTER OF REBECCA HONN
RESPONDENT

FILED
FEB 07 2025
INDIANA STATE
ETHICS COMMISSION

ORDER AND HEARING NOTICE

Pursuant to IC 4-21-3-20, the Indiana State Ethics Commission (Commission) issues the following Hearing Notice:

1. On August 8, 2024, the Indiana State Ethics Commission found that probable cause exists to support a complaint filed by Inspector General David Cook, by counsel, alleging that Respondent violated Ind. Code § 4-2-6-11(b)(3), 42 IAC 1-5-10, and 42 IAC 1-5-11. A hearing was scheduled for October 10, 2024.
2. On September 27, 2024, the Inspector General, by counsel filed a Motion to Continue Public Hearing and to Request a Prehearing Conference.
3. On October 3, 2024, the State Ethics Commission granted the motion, scheduling a prehearing conference for November 4, 2024, at 2:00 p.m. to occur via Microsoft Teams. At this prehearing conference, the parties agreed to the following Case Management Plan:
 - a. The parties will submit their Witness and Exhibit lists by December 27, 2024.
 - b. The Inspector General will have until January 13, 2025, to file any dispositive motions or motions in limine.
 - c. Respondent Honn will have until January 28, 2025, to file responses to any dispositive motions or motions in limine filed by the Inspector General.
 - d. The parties will have until February 13, 2025, to complete discovery.

- e. This matter is set for a hearing on any dispositive motions or motions in limine on February 13, 2025, at 10:00 a.m. local time. If no motions are filed by January 13, 2025, this hearing will be vacated.
 - f. This matter is set for final hearing on March 13, 2025, at 9:00 a.m. local time.
 - g. The parties will have 30 days from the date of the final hearing to submit any proposed orders.
4. As the Inspector General, by counsel, filed a motion in limine, and as Respondent, by counsel, has filed a response, the February 13, 2025, hearing will take place at the Indiana State Library in the Author's Room on the second floor of the building at 10:00 a.m. EST (315 W. Ohio Street, Indianapolis, IN 46202). The Commission will consider the Inspector General's motion in limine and Respondent's response at the hearing. The Inspector General requested the Commission to order Respondent to submit a summary of the testimony of certain witnesses or purpose of certain exhibits. In the interest of expediting the hearing, the Commission recommends that Respondent submit brief summaries, but the Commission does not order Respondent to do so.
5. The March 13, 2025, hearing will take place at the Indiana State Library in the Author's Room on the second floor of the building at 9:00 a.m. EST (315 W. Ohio Street, Indianapolis, IN 46202).
6. Copies of all past orders in this matter are attached to this order.
7. Any party who fails to participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under IC 4-21.5-3-24.

SO ORDERED this 7 day of February 2025.

/s/ Katherine Noel

Katherine Noel, Chair
Indiana State Ethics Commission

Distribution to all counsel of record.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

INDIANA STATE ETHICS COMMISSION

CASE NO.: 2024-01-0030

IN RE THE MATTER OF REBECCA HONN
RESPONDENT

FILED
NOV 19 2024
INDIANA STATE
ETHICS COMMISSION

HEARING NOTICE AND CASE MANAGEMENT ORDER

Pursuant to Indiana Code § 4-21.5-3-120, the Indiana State Ethics Commission issues the following Hearing Notice and Case Management Order:

1. On August 8, 2024, the Indiana State Ethics Commission found that probable cause exists to support a complaint filed by Inspector General David Cook, by counsel, alleging that Respondent violated Ind. Code § 4-2-6-11(b)(3), 42 IAC 1-5-10, and 42 IAC 1-5-11. A hearing was scheduled for October 10, 2024.

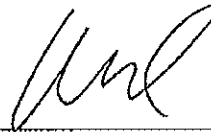
2. On September 27, 2024, Inspector General David Cook, by counsel filed a Motion to Continue Public Hearing and to Request a Prehearing Conference.

3. On October 3, 2024, the State Ethics Commission granted the motion, scheduling a prehearing conference for November 4, 2024, at 2:00 p.m. to occur via Microsoft Teams. At this prehearing conference, the parties agreed to the following Case Management Plan:

- a. The parties will submit their Witness and Exhibit lists by December 27, 2024.
- b. The Inspector General will have until January 13, 2025, to file any dispositive motions or motions in limine.
- c. Respondent Honn will have until January 28, 2025, to file responses to any dispositive motions or motions in limine filed by the Inspector General.
- d. The parties will have until February 13, 2025, to complete discovery.

- e. This matter is set for a hearing on any dispositive motions or motions in limine on February 13, 2025, at 10:00 a.m. local time. If no motions are filed by January 13, 2025, this hearing will be vacated.
 - f. This matter is set for final hearing on March 13, 2025, at 9:00 a.m. local time.
 - g. The parties will have 30 days from the date of the final hearing to submit any proposed orders.
- 4. Copies of all past orders in this matter are attached to this order.
 - 5. Any party who fails to participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under IC 4-21.5-3-24.

SO ORDERED this 11 day of November 2024.



Katherine Noel, Chair
Indiana State Ethics Commission

Distribution to all counsel of record.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

INDIANA STATE ETHICS COMMISSION
CASE NO.: 2024-01-0030

IN RE THE MATTER OF REBECCA HONN
RESPONDENT

FILED
OCT 23 2024
INDIANA STATE
ETHICS COMMISSION

NOTICE OF PREHEARING CONFERENCE

Pursuant to Indiana Code § 4-21.5-3-18, the Indiana State Ethics Commission issues the following Notice of Prehearing Conference:

1. On August 8, 2024, the Indiana State Ethics Commission found that probable cause exists to support a complaint filed by Inspector General David Cook, by counsel, alleging that Respondent violated Ind. Code § 4-2-6-11(b)(3), 42 IAC 1-5-10, and 42 IAC 1-5-11. A hearing was scheduled for October 10, 2024.
2. On September 27, 2024, Inspector General David Cook, by counsel filed a Motion to Continue Public Hearing and to Request a Prehearing Conference.
3. On October 3, 2024, the State Ethics Commission granted the motion, scheduling a prehearing conference for **November 4, 2024, at 2:00 p.m.** to occur via Microsoft Teams. The Microsoft Teams link to the prehearing conference is: https://teams.microsoft.com/l/meetup-join/19%3ameeting_NTQzMTQxMGQlYzFjNC00MGI3LTlkMWYtN2MzODQwMDE5NTgw%40thread.v2/0?context=%7b%22Tid%22%3a%222199bfba-a409-4f13-b0c4-18b45933d88d%22%2c%22Oid%22%3a%224a0cd1da-dd4f-486a-9c95-2ed67e8e8376%22%7d
4. This notice is being provided via email to Respondent by counsel, Erik Weber, 130 East Seventh Street, Auburn, Indiana 46706.
5. This notice is being provided via email to Inspector General David Cook, by counsel Hope Blankenberger, Staff Attorney, 315 W. Ohio Street, Room 104, Indianapolis,

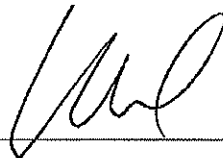
Indiana 46202, (317) 234-4109 and Chief Legal Counsel Tiffany Mulligan, 315 W. Ohio Street, Room 104, Indianapolis, IN 46202, (317) 232-3850.

6. The Commission is empowered to hold this prehearing conference pursuant to the authority of 40 IAC 2-3 and Ind. Code § 4-21.5-3.

7. Regan Perrodin, State Ethics Commission Director, may be contacted concerning the date or procedures via mail in the care of Indiana State Ethics Commission, 315 West Ohio Street, Room 104, Indianapolis, Indiana 46202, by telephone at (317) 234-4108, or by email at reperrodin@ig.in.gov.

8. A party who fails to attend or participate in a prehearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under Ind. Code § 4-21.5-3-24.

SO ORDERED this 23 day of October 2024.



Katherine Noel, Chair
Indiana State Ethics Commission

Distribution to all counsel of record.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

INDIANA STATE ETHICS COMMISSION
CASE NO.: 2024-01-0030

IN RE THE MATTER OF REBECCA HONN
RESPONDENT

**ORDER GRANTING MOTION TO CONTINUE AND SCHEDULE PREHEARING
CONFERENCE**

Petitioner having filed its Motion to Continue Public Hearing and to Request a Prehearing Conference, and the Indiana State Ethics Commission (Commission) having been duly advised, **GRANTS** said Motion as follows:

IT IS THEREFORE ORDERED that Petitioner's Motion to Continue be granted, and a prehearing conference will be scheduled for November 4, 2024, at 2:00 p.m. The hearing is continued to a date to be decided upon at the November 4, 2024, prehearing conference. The prehearing conference will be held via Microsoft Teams; a link to join will be provided to the Parties.

SO ORDERED this 3rd day of October 2024.



Katherine Noel, Chair
Indiana State Ethics Commission

Distribution to all counsel of record.

FILED

OCT 4 2024

INDIANA STATE
ETHICS COMMISSION