

ETHICS RULES

from the Indiana Code of Ethics (Effective January 1, 2012)
See www.in.gov/ig for definitions and the complete Code of Ethics (42 IAC 1-5)

42 IAC 1-5-1 Gifts; travel expenses; waivers

THE GIFT RULE:

(a) A state employee or special state appointee, or the spouse or unemancipated child of a state employee or special state appointee, shall not knowingly solicit, accept, or receive any:

- (1) gift;
- (2) favor;
- (3) service;
- (4) entertainment;
- (5) food;
- (6) drink;
- (7) travel expenses; or
- (8) registration fees;

from a person who has a business relationship with the employee's or special state appointee's agency or is seeking to influence an action by the employee or special state appointee in his or her official capacity.

EXCEPTIONS

(b) The following shall not be subject to this rule:

- (1) Gifts, favors, services, entertainment, food, drink, travel expenses or registration fees from public agencies or public institutions.
- (2) Food or drink consumed at a public meeting to which at least twenty-five (25) individuals are invited. A meeting will be considered public if:
 - (A) the event is a reception or other gathering for public officials that is not arranged to solicit government procurement of goods or services;
 - (B) the employee is giving a speech or participating in a presentation in the employee's official capacity; or
 - (C) the meeting has a formal educational program that the employee is attending to assist him or her in performing official duties.
- (3) Mementos or souvenirs of nominal value.
- (4) Food or drink consumed by an employee during negotiations or other activities related to an Indiana economic development corporation economic development project.
- (5) Gifts, favors, services, entertainment, food, or drinks from relatives, or a person with whom the employee or special state appointee has an ongoing social relationship, so long as:
 - (A) the gifts or other items of value are not deducted as a business expense; and
 - (B) the gift giver is not seeking to influence an action by an employee or special state appointee in that person's official capacity.
- (6) Political contributions subject to IC 3-9-2 that are reported in accordance with applicable law.
- (7) Nominal refreshments offered to a state employee or a special state appointee conducting official state business while the employee or special state appointee is at a workplace of a person who:
 - (A) has a business relationship; or
 - (B) seeks to influence official action with the employee's or special state appointee's agency.
- (8) Discount and other promotional programs approved and made available to state employees and special state appointees through the state personnel department or the Indiana department of administration.

WAIVERS

(c) An employee's or special state appointee's state officer or appointing authority may waive application of subsection (a) of this rule in individual cases when consistent with the public interest. The waiver shall:

- (1) be in writing; and
- (2) identify the following:
 - (A) The employee or special state appointee.
 - (B) The nature and value of the gift.
 - (C) The donor of the gift.
 - (D) Why acceptance of the gift is consistent with the public interest.

(d) Written waivers must be filed with the commission within thirty (30) days of receipt of the gift. The commission may review the written waivers. An appointing authority or state officer may designate

authority to the agency's ethics officer to waive application of this rule on behalf of the appointing authority or state officer. The designation shall be in writing and filed with the commission.

(e) If a person wishes to reimburse the state for any part or all of the expenses incurred by the state for appearances of a state officer, employee or special state appointee or their official representatives on behalf of the state, the person shall remit to the treasurer of state any such amounts. The treasurer of the state shall quietus the funds into the general fund.

42 IAC 1-5-2 Donor Restrictions

A person who has a business relationship with an employee's or a special state appointee's agency shall not provide any:

- (1) gifts;
- (2) favors;
- (3) services;
- (4) entertainment;
- (5) food;
- (6) drink;
- (7) travel expenses; or
- (8) registration fees

to such employee or special state appointee if the employee or special state appointee would not be permitted to accept the gift, favor, service, entertainment, food, drink, travel expenses or registration fees under this rule.

42 IAC 1-5-3 Honoraria

An employee shall not personally accept an honorarium for any activity that may be considered part of the state employee's official duties. However, a state employee may accept an honorarium on behalf of the state. The employee accepting the honorarium shall remit to the treasurer of state any amount received. The treasurer of state shall quietus such funds into the general fund. An employee may personally accept an honorarium for activities not done in connection with the employee's official duties and that are prepared on the employee's own time and without the use of state resources. However, in no case may an employee accept an honorarium from a person who has a business relationship or seeks to influence an official action with the employee's agency.

42 IAC 1-5-4 Political activity

(a) A state employee or special state appointee shall not engage in political activity including solicitation of political contributions from:

- (1) another employee or special state appointee; or
- (2) any other person when on duty or acting in an official capacity.

(b) This section does not prohibit a state employee or special state appointee from engaging in such activity when not on duty.

(c) A state employee or special state appointee shall not solicit political contributions at any time from:

- (1) persons whom the employee or special state appointee knows to have a business relationship with the employee's or the special state appointee's agency; or
- (2) state employees or special state appointees directly supervised by the employee or the special state appointee.

(d) The appointing authority of an agency and all employees or special state appointees with purchasing or procurement authority on behalf of the state shall not solicit political contributions on behalf of any candidate for public office, unless that individual is a candidate for public office himself or herself.

42 IAC 1-5-5 Moonlighting (IC 4-2-6-5.5)

(a) A current state officer, employee, or special state appointee shall not knowingly:

(1) accept other employment involving compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired;

(2) accept employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of state employment; or

(3) use or attempt to use the individual's official position to secure unwarranted privileges or exemptions that are:

- (A) of substantial value;
- (B) and not properly available to similarly situated individuals.

(b) A written advisory opinion issued by the commission or the individual's appointing authority or agency ethics officer granting approval of outside employment is conclusive proof that an individual is not in violation of subsection (a)(1) or (a)(2).

42 IAC 1-5-6 Conflicts of interest; decisions and voting (IC 4-2-6-9)

(a) A state officer, an employee, or a special state appointee may not participate in any 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 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 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:

- (1) 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
- (2) 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.

(c) A written determination under subsection (b)(2) 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)(2) shall be filed with the appointing authority.

42 IAC 1-5-7 Conflicts of interest; contracts (IC 4-2-6-10.5)

(a) Subject to subsection (b), a state officer, an employee, or a special state appointee may not knowingly have a financial interest in a contract made by an agency.

(b) The prohibition in subsection (a) does not apply to:

(1) a state officer, an employee, or a special state appointee who does not participate in or have official responsibility for any of the activities of the

contracting agency, if:

- (A) the contract is made after public notice or, where applicable, through competitive bidding;
- (B) the state officer, employee, or special state appointee files with the commission a statement making full disclosure of all related financial interests in the contract;
- (C) the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee; and
- (D) in the case of a contract for professional services, the appointing authority of the contracting agency makes and files a written certification with the commission that no other state officer, employee, or special state appointee of that agency is available to perform those services as part of the regular duties of the state officer, employee, or special state appointee; or

(2) a state officer, an employee, or a special state appointee who, acting in good faith, learns of an actual or prospective violation of the prohibition in subsection (a), if, not later than thirty (30) days after learning of the actual or prospective violation, the state officer, employee, or special state appointee:

- (A) makes a full written disclosure of any financial interests to the contracting agency and the commission; and
- (B) terminates or disposes of the financial interest.

42 IAC 1-5-8 Additional Compensation

A state officer, employee, or special state appointee shall not solicit or accept compensation for the performance of official duties other than provided for by law.

42 IAC 1-5-9 Bribery

A state officer, employee or special state appointee shall not pay or offer to pay any compensation for the performance of a state officer's, employee's or special state appointee's official duties except as permitted by law.

42 IAC 1-5-10 Benefiting from confidential information

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

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

42 IAC 1-5-12 Use of state property

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

42 IAC 1-5-13 Ghost Employment

A state officer, employee or special state appointee shall not engage in, or direct others to engage in, work other than the performance of official duties during working hours, except as permitted by general written agency, departmental or institutional policy or regulation.

42 IAC 1-5-14 Post-employment restrictions (IC 4-2-6-11)

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

- (1) an application;

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

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

(b) This subsection applies only to a person who served as a state officer, employee, or special state appointee after January 10, 2005. 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 his or her 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) representation by; or
- (3) 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 a special state appointee who serves only as a member of an advisory body.

(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. Waivers must be in writing and filed with the commission. The inspector general may adopt rules under IC 4-22-2 to establish criteria for post employment waivers.

42 IAC 1-5-15 Nepotism (IC 4-2-6-16)

(a) This chapter does not prohibit the continuation

of a job assignment that existed on July 1, 2012.

(b) As used in this section, "employed" refers to all employment, including full-time, part-time, temporary, intermittent, or hourly. The term includes service as a state officer or special state appointee.

(c) An individual employed in an agency may not hire a relative.

(d) Except as provided in subsection (e), an individual may not be employed in the same agency in which an individual's relative is the appointing authority.

(e) An individual may be employed in the same agency in which the individual's relative is the appointing authority, if the individual has been employed in the same agency for at least twelve (12) consecutive months immediately preceding the date the individual's relative becomes the appointing authority.

(f) Except as provided in subsection (e), an individual may not be placed in a relative's direct line of supervision.

(g) An individual employed in an agency may not contract with or supervise the work of a business entity of which a relative is a partner, executive officer, or sole proprietor.

(h) Any person within an agency who knowingly participates in a violation of this chapter is subject to the penalties set forth in section 12 of this chapter.

42 IAC 1-5-16 Communications by state officers (IC 4-2-6-15)

(a) This section does not apply to the following:

- (1) A communication made by the governor concerning the public health or safety.
- (2) A communication:
 - (A) that a compelling public policy reason justifies the state officer to make; and
 - (B) the expenditure for which is approved by the budget agency after an advisory recommendation from the budget committee.

(b) This section does not prohibit a state officer from using in a communication the title of the office the state officer holds.

(c) As used in this section, "communication" refers only to the following:

- (1) An audio communication.
- (2) A video communication.
- (3) A print communication in a newspaper (as defined in IC 5-3-1-0.4).

(d) A state officer may not use the state officer's name or likeness in a communication paid for entirely or in part with appropriations made by the general assembly, regardless of the source of the money.

(e) A state officer may not use the state officer's name or likeness in a communication paid for entirely or in part with:

- (1) money from the securities division enforcement account established under IC 23-19-6-1(f); or
- (2) appropriations from the state general fund made under IC 23-19-6-1(f).

42 IAC 1-4-1 Training requirements

(a) All state officers, employees, and special state appointees, shall be properly trained in the code of ethics as described in this article. All persons who have a business relationship with a state agency are obligated to abide by the code of ethics.

(b) Each agency's appointing authority shall do the following:

- (1) Require all new employees and special state appointees to participate in ethics training within six (6) weeks of the employee's starting employment and the special state appointee's appointment date with the agency.
- (2) Require all employees and special state appointees to participate in ethics training at least every two (2) years during an employee's and special state appointee's tenure with the agency.
- (3) Maintain documentation to demonstrate an employee's and special state appointee's compliance with subdivisions (1) and (2).

End.