



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA STATE BOARD OF EDUCATION (SBOE)
TITLE: SBOE CONFLICT OF INTERESTS
CASE ID: 2019-01-0010
DATE: May 14, 2019

Inspector General Chief Legal Counsel, Tiffany Mulligan, after an investigation by Special Agent Mike Lepper, reports as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse and wrongdoing in executive branch agencies of state government. IC 4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics violations within state government. IC 4-2-7-3. The OIG may recommend polices and carry out other activities designed to deter, detect and eradicate fraud, waste, abuse, mismanagement and misconduct in state government. IC 4-2-7-3(2).

On January 17, 2019, the OIG received a complaint alleging that a State Board of Education (SBOE) member (Member) voted on a matter that impacted an organization with whom the Member was negotiating employment. Specifically, the complaint alleged that the Member voted to approve the Indiana State Approved Course Titles and Descriptions for the 2019-2020 School Year (Course Catalog), which included several courses offered by an education service provider (Provider), during a December 12, 2018 SBOE board meeting. The complaint alleged that the Member may have been negotiating employment with the Provider when the December 12, 2018 vote took place.

Special Agent Mike Lepper conducted an investigation into a possible violation of IC 4-2-6-9, the Code of Ethics' conflict of interests in decisions and voting rule. Special Agent Lepper

reviewed SBOE records, including the Course Catalog and records of the SBOE meeting in which the vote took place. In addition, Special Agent Lepper interviewed the Member and employees of the SBOE, the Indiana Department of Education (IDOE), and the Provider.

Special Agent Lepper learned that in the fall of 2018, the Member had discussions with a representative of the Provider (Representative 1). The Member described Representative 1 as a mentor who provided the Member with career advice. The Member said that at one point, Representative 1 asked if the Member had any interest in working for the Provider. The Member said they did not discuss any particular job at that time.

In early December 2018, prior to the SBOE vote on the Course Catalog, another representative of the Provider (Representative 2) asked the Member to lunch to meet senior leadership of the Provider. The Provider did not make a formal job offer to the Member at the lunch. Representative 2 told Special Agent Lepper that after the December lunch he told senior leadership that he thought the Member would be a good fit for a position with the Provider.

On December 12, 2018, SBOE members, including the Member, voted to approve the Course Catalog. IDOE puts a course catalog together each year, and the SBOE votes to approve it. The Course Catalog is over 300 pages long and includes a large number of course titles and descriptions. The Provider's courses have been included in the course catalog for over ten years.

The SBOE members received materials one week prior to the December 12th vote. According to IDOE staff, the SBOE Board members usually do not provide input on a course catalog prior to the SBOE's approval. The Member stated that they did not have any conversations with anyone at IDOE or Provider about the 2019-2020 Course Catalog. Special Agent Lepper confirmed with both IDOE and SBOE staff that the SBOE did not have input into what courses are included in the Course Catalog.

At the December 12, 2018, SBOE meeting, the SBOE heard public comments about agriculture interests prior to the vote on the Course Catalog; however, the SBOE did not have further discussion on the Course Catalog prior to the vote. The SBOE did not discuss the Provider's courses included in the Course Catalog. The SBOE held one vote on the entire Course Catalog; the SBOE did not consider each course or each course type separately. The SBOE unanimously approved the Course Catalog.

On December 26, 2018, the Employee received a formal job offer from the Provider. Special Agent Lepper learned that the Provider did not finalize or post the job description for this position until after the SBOE vote on the Course Catalog. Representative 2 said that the Provider opened the job for applications; however, the Provider only considered two candidates for the position: one internal candidate and the Member.

In January of 2018, the Member notified SBOE staff that the Member had accepted employment with the Provider. The Member stated that they did not disclose their meetings with the Provider prior to the vote on the Course Catalog because the Member believed the vote was administrative and because SBOE had no input into the Course Catalog.

During the course of his investigation, Special Agent Lepper found no evidence that the Member engaged in criminal activity; however, the Member found evidence to suggest the Member may have violated IC 4-2-6-9. This rule prohibits a special state appointee from participating in a decision or vote if he or she knows that a business organization with whom he or she is negotiating employment has a financial interest in the decision or vote.

Although the Member may have technically violated IC 4-2-6-9, the OIG is declining to file a complaint in this matter for two main reasons. First, it is unclear if the Member's discussions with the Provider prior to the December 12th vote amounted to negotiating

employment about a potential job because the Member did not discuss a specific job with the Provider and the Provider did not finalize the job description or offer the Member the job prior to the vote. Second, SBOE's vote on the Course Catalog appeared to be administrative in nature. The vote occurs every year on a voluminous document containing a large number of courses; it occurred this year without discussion on the items in question; and the vote was unanimous. Accordingly, the OIG is closing this investigation and is declining to file an ethics complaint against the Member.

Although the OIG is declining to file an ethics complaint against the Member, the OIG recommends SBOE staff educate SBOE members on IC 4-2-6-9 to ensure all members understand that the rule extends to conflicts of interests involving employers with whom the SBOE members are negotiating employment. SBOE staff should encourage SBOE members to notify staff once any employment negotiations begin to help SBOE members ensure that they fully comply with IC 4-2-6-9.

Dated: May 14, 2019

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive, flowing style.

Lori Torres, Inspector General