

INDIANA STATE ETHICS COMMISSION

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The General Counsel and Ethics Officer for the Indiana Department of Natural Resources (DNR) sought advice regarding campaigning for and potentially serving in an outside partisan school board role. The Commission finds that the campaign and prospective role would not be contrary to the Code of Ethics.

July 9, 2026
2026-FAO-003

The Indiana State Ethics Commission (Commission) issues the following Formal Advisory Opinion (FAO) concerning the State Code of Ethics (Code) pursuant to IC 4-2-6-4(b)(1). The following opinion is based exclusively on sworn testimony and documents presented by the requestor, Employee, General Counsel and Ethics Officer with the Indiana Department of Natural Resources (DNR), whose outside political and professional activity serve as the primary basis for this request.

BACKGROUND

In Employee's General Counsel role with DNR, she provides legal advice to the agency, agency leadership, and agency divisions on a broad range of matters involving DNR programs, operations, litigation, administrative proceedings, contracts, employment matters, compliance obligations, public records, rulemaking, statutory interpretation, and agency legal risk. legal issues involving federal grants. Although she may delegate federal grant related questions to another DNR attorney, that attorney would still report to her within DNR's chain of legal supervision. Employee also supervises DNR's internal audits department, where she could oversee or become involved in audit issues involving federal grants or grant compliance. Employee also handles or supervises legal questions involving DNR employees who serve in federally funded roles or whose work is connected to federally funded programs. Employee's DNR salary is not federally funded. In her Ethics Officer role with DNR, Employee assists with agency ethics issues including conflict questions, outside employment questions, disclosure issues, and related ethics matters.

Employee has filed candidacy for the Carmel Clay Schools Board of School Trustees. The school board race is partisan and she has filed as a Republican candidate; she is still able to

withdraw her candidacy. The school board position is compensated at approximately \$2,000 per year. This money would be from an allocation of taxpayer funds through the Indiana Department of Education. If elected, she would serve on the school board while continuing her employment as DNR General Counsel. Employee would conduct all campaign activity and school board work on personal time. She would not use state materials, funds, property, personnel, facilities, equipment, email, phones, vehicles, confidential information, state time, or DNR authority for campaign activity or school board service. She would not solicit political contributions from DNR employees she directly supervises or from persons she knows to have a business relationship with DNR. Employee would also avoid using her DNR title, position, or authority to suggest DNR endorsement of her candidacy or school board service; Employee provides her campaign website lists her job as “General Counsel” without reference to DNR or the State of Indiana.

In her testimony before the Commission, Employee provided that DNR and the Carmel Clay School system do not have any contracts. There is a possibility that DNR could informally be involved with Carmel Clay Schools since DNR does education and similar activities, although Employee is unsure whether contracts would be in place for those. Additionally, there are contractors that may work for both DNR and the Carmel Clay School System, and Employee would have oversight of both should she be elected to the School Board position. Employee added that she does not have contracting responsibility in her DNR role. Regarding other relationships between DNR and Carmel Clay Schools, Employee provided that DNR could potentially be involved in deciding whether to disperse federal grant funds to the Carmel Clay Schools Board. In her General Counsel role Employee does not administer grants, nor does she review them. Her potential interaction with grants, albeit unlikely, would involve her being asked to look at something from a legal perspective should a question arise.

When asked what actions she would take to avoid any appearance of conflict of impropriety should DNR be in the position to give a grant to Carmel Clay Schools, Employee provides it is unlikely that she would even know about the grant unless a legal question about it came up, but in that case she would notify her superior, DNR’s Chief of Staff, that she could not participate in the discussion and to delegate that work to another attorney.

Additionally, Employee provides that if a DNR grant is on the Carmel Clay School Board agenda, she would recuse herself and explain she believes there is a conflict and would not participate in the discussion. She adds that she cannot remember an instance in her work at DNR in the last year and a half where DNR matters and Carmel Clay Schools matters have intersected. Furthermore, Employee provided that if a matter were to come up in which her role at DNR and Carmel Clay Schools interact, she would ask that this be reflected in the minutes of the School Board meeting and through the appropriate channels with DNR. In such a situation, she would ask for either an informal or a formal advisory opinion.

Employee requests a formal advisory opinion regarding her school board candidacy and asks several questions:

- Whether the Code permits her to continue her candidacy for, and if elected, serve on the Carmel Clay Schools Board of School Trustees while continuing to serve as General

Counsel for DNR;

- Whether she would need to file a conflict of interests disclosure or be screened from DNR matters involving Carmel Clay Schools, the Carmel Clay Schools Board of School Trustees, school corporation grants or contracts, DNR programs involving the school corporation, federal grant issues, internal audit issues, employees in federally funded roles, or any other matter in which DNR, Carmel Clay Schools, or she may have a financial interest;
- Whether she would need to recuse from school board matters involving DNR, DNR programs, DNR permits, DNR grants, DNR contracts, DNR property, DNR regulatory issues, DNR employees, or other DNR interests;
- Whether delegation of federal grant matters, internal audit matters, Carmel Clay Schools related matters, or school corporation related matters to another attorney or employee who still reports to her would be sufficient – or whether an effective screen would require assignment outside her supervisory chain;
- Whether, because she is Ethics Officer, any disclosure, recusal, screen, approval, or ethics determination involving her should be reviewed, signed, or administered by an alternate ethics officer, the appointing authority, or another designated official;
- Whether the Code requires any restrictions beyond her stated intent not to use state materials, funds, property, personnel, facilities, equipment, email, phones, vehicles, confidential information, state time, or DNR authority for campaign activity or school board service;
- Whether she may continue to campaign, provided she complies with the political activity rule, does not campaign on state time, does not act in her official DNR capacity for campaign purposes, does not use state resources, and does not solicit contributions from direct reports or persons she knows to have a business relationship with DNR;
- In the event that the Commission determines that her continued candidacy or potential school board service would create an ethics issue that cannot practically be cured through disclosure, recusal, delegation, screening, use of an alternate ethics officer, or other conditions, whether withdrawal of her candidacy would resolve the issue

Employee is not asking the Commission to interpret the Federal Hatch Act, Indiana election law, or Indiana dual office holding law. Employee discloses as relevant facts the partisan nature of the race, that she has already filed, that she is still able to withdraw, the federal grant aspect of her DNR role, and that her salary is not federally funded.

ISSUES

Would the Code limit or prohibit Employee from continuing with her school board candidacy?

Would the Code limit or prohibit Employee, if elected, from serving on the Carmel Clay Schools Board of School Trustees while remaining employed as DNR General Counsel?

Would the Code require Employee to arrange, if elected, ethics disclosures, screens, delegations, alternate ethics officer arrangements, or other conditions?

RELEVANT LAW

42 IAC 1-5-4

Political activity

Sec. 4. (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.

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

Conflict of interest; advisory opinion by commission

Sec. 5.5. (a) A current state officer, employee, or special state appointee may not knowingly do any of the following:

- (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.
- (3) Use or attempt to use the individual's official position to secure unwarranted privileges or exemptions that are:
 - (A) of substantial value; and
 - (B) not properly available to similarly situated individuals outside state government.

(b) A written advisory opinion issued by the commission stating that an individual's outside employment does not violate subsection (a)(1) or (a)(2) is conclusive proof that the individual's outside employment does not violate subsection (a)(1) or (a)(2).

IC 4-2-6-9 (42 IAC 1-5-6)

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.

42 IAC 1-5-1

Gifts; travel expenses; waivers

Sec. 1. (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.

(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.

(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.

IC 4-2-6-17

Use of state property for other than official business

(a) Subject to IC 4-2-7-5, a state officer, an employee, or a special state appointee may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation that has been approved by the commission. The commission may withhold approval of a policy or rule that violates the intent of Indiana law or the code of ethics, even if Indiana law or the code of ethics does not explicitly prohibit that policy or rule.

(b) An individual who violates this section is subject to action under section 12 of this chapter.

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.

IC 4-2-6-10.5 (42 IAC 1-5-7)

Prohibition against financial interest in contract; exceptions; disclosure statement; penalty for failure to file statement

Sec. 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 a state officer, an employee, or a special state appointee who:

(1) does not participate in or have contracting responsibility for the contracting agency; and

- (2) files a written statement with the inspector general before the state officer, employee, or special state appointee executes the contract with the state agency.
- (c) A statement filed under subsection (b)(2) must include the following for each contract:
- (1) An affirmation that the state officer, employee, or special state appointee does not participate in or have contracting responsibility for the contracting agency.
 - (2) An affirmation that the contract: (A) was made after public notice and, if applicable, through competitive bidding; or (B) was not subject to notice and bidding requirements and the basis for that conclusion.
 - (3) A statement making full disclosure of all related financial interests in the contract.
 - (4) A statement indicating that the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee.
 - (5) In the case of a contract for professional services, an affirmation by the appointing authority of the contracting agency 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. A state officer, employee, or special state appointee may file an amended statement upon discovery of additional information required to be reported.
- (d) A state officer, employee, or special state appointee who:
- (1) fails to file a statement required by rule or this section; or
 - (2) files a deficient statement; before the contract start date is, upon a majority vote of the commission, subject to a civil penalty of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

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.

IC 4-2-6-6

Present or former state officers, employees, and special state appointees; compensation resulting from confidential information

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.

ANALYSIS

Employee's request for a FAO invokes consideration of the provisions of the Code pertaining to political activity; conflicts of interests related to (a) outside employment, (b) decisions and votes, and (c) contracts; gifts; use of state property and ghost employment; and confidential information. The application of each provision to Employee's situation is analyzed below.

A. Political Activity

42 IAC 1-5-4 prohibits Employee from engaging in political activity including:

- When on duty: soliciting political contributions from another employee or special state appointee, or from any other person; and
- At any time: soliciting political contributions from persons whom Employee knows to have a business relationship with DNR, or state employees or special state appointees directly supervised by Employee

42 IAC 1-5-4(b) does not prohibit Employee from engaging in political activity when not on duty.

Employee provides that she would not solicit political contributions from DNR employees she directly supervises or from persons she knows to have a business relationship with DNR. She also indicates she would conduct all campaign activity and school board work on her personal time. Furthermore, her campaign website does not list an association with DNR or the State of Indiana.

Accordingly, based on the information provided, the Commission finds that neither Employee's campaign for school board, nor her prospective service on the school board if elected, violates 42 IAC 1-5-4.

B. Moonlighting (Conflict of Interests - Outside Employment)

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

Employee indicates she would receive \$2,000 per year for her school board position and would not use any confidential information in her outside role(s). Employee provided that DNR could potentially be involved in deciding whether to disperse federal grant funds to the Carmel Clay Schools Board. In her General Counsel role Employee does not administer grants, nor does she review them. Her potential interaction with grants, albeit unlikely,

would involve her being asked to look at something from a legal perspective should a question arise. She adds that she cannot remember an instance in her work at DNR in the last year and a half where DNR matters and Carmel Clay Schools matters have intersected. Additionally, she would also avoid using her DNR title, position, or authority to suggest agency endorsement of her candidacy or school board service.

Accordingly, based on the information provided, the Commission finds that Employee's campaign for, along with her prospective role with Carmel Clay Schools Board of School Trustees, do not violate IC 4-2-6-5.5.

C. Conflict of Interests - Decisions and Votes

IC 4-2-6-9 prohibits Employee from participating in any decision or vote, or matter relating to that decision or vote, if she has knowledge that various persons may have a "financial interest" in the outcome of the matter, including herself or a business organization in which she is serving as a member, and any person or organization with whom she is negotiating or has an arrangement concerning prospective employment.

The Commission determines that Carmel Clay Schools is not a business organization for purposes of this rule. As such, IC 4-2-6-9 would not prohibit Employee from participating in a DNR matter related to a decision or vote in which Carmel Clay Schools would have a financial interest in the outcome.

However, to address any appearance of impropriety and appearance of a conflict, Employee provides that in the unlikely event that her DNR role would involve making or participating in a matter related to a decision or vote in which Carmel Clay Schools would have a financial interest in the outcome – such as if DNR's decision whether to award federal grant funds to Carmel Clay Schools encounters a legal question that would lead to Employee's involvement as General Counsel – she would disclose the matter to DNR's Chief of Staff to be removed from further involvement regarding that grant decision, and would also disclose the matter to the Carmel Clay Schools Board, followed by recusal at any School Board meeting for matters involving the grant.

The Commission determines that IC 4-2-6-9 does not prohibit Employee's notification and recusal process outlined above should a matter come before her in her DNR role in which Carmel Clay Schools would have a financial interest in the outcome.

Additionally, out of an abundance of caution, it would be appropriate for Employee to reach out for additional advice should she find herself in such a situation in the future – either for an informal opinion from the OIG or a formal advisory opinion from the Commission.

D. Gifts

42 IAC 1-5-1 prohibits Employee, and her spouse or unemancipated child, from accepting gifts from persons with a business relationship with DNR. Based on her submission and

testimony, this rule does not prohibit Employee from running for, or from serving on the Carmel Clay Schools board of school trustees while maintaining her DNR role.

E. Use of State Property

IC 4-2-6-17 prohibits Employee from using state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation that has been approved by the Commission.

Employee provides she would conduct all campaign activity and school board work on personal time and would not use state materials, funds, property, personnel, facilities, equipment, email, phones, vehicles, confidential information, state time, or DNR authority for campaign activity or school board service. Furthermore, Employee provides that her campaign website lists her job as “General Counsel” and does not reference DNR or the State of Indiana.

Based on the information provided, the Commission finds that IC 4-2-6-17 does not prohibit Employee’s campaign activity and prospective school board service.

F. Ghost Employment

42 IAC 1-5-13 provides that Employee shall not engage in, or direct others to engage in, work other than the performance of official duties during work hours, except as permitted by general agency, departmental, or institutional policy or regulation. Employee provides she would conduct all campaign activity and school board work on personal time would not use state materials, funds, property, personnel, facilities, equipment, email, phones, vehicles, confidential information, state time, or DNR authority for campaign activity or school board service.

Based on the information provided, the Commission finds that 42 IAC 1-5-13 does not prohibit Employee’s campaign activity, nor does it prohibit her prospective school board service.

G. Conflict of Interests – Interest in a State Contract

IC 4-2-6-10.5 prohibits Employee from having a financial interest in a contract with any state agency. The Code defines “financial interest” to include an interest arising from employment. The Commission has interpreted this rule to apply when a state employee derives compensation from a contract between a state agency and a third party. IC 4-2-6-10.5’s prohibition does not apply to a state employee who does not participate in or have contracting responsibility for the contracting agency and files a written statement with the OIG before the state employee executes the contract.

Employee provides that her prospective \$2,000 annual compensation would be state taxpayer money – while not necessarily in the form of a contract - that is dispersed by the

Indiana Department of Education. Given her DNR role and lack of contracting responsibility, the Commission finds that this rule would not prohibit Employee from accepting the \$2000 annual compensation so long as she first files a written statement with the OIG pursuant to IC 4-2-6-10.5 *before* executing her compensation agreement.

H. Confidential Information

42 IAC 1-5-10 prohibits Employee from benefitting from, or permitting any other person to benefit from, information of a confidential nature except as permitted by law. 42 IAC 1-5-11 prohibits Employee from divulging information of a confidential nature except as permitted by law. IC 4-2-6-6 prohibits Employee from accepting any compensation from any employment, transaction, or investment, which was entered into or made as a result of material information of a confidential nature.

As Employee provides she would not use confidential information for campaign activity or school board service, the Commission finds that the Code's confidential information rules do not prohibit Employee from engaging in campaign activity or school board service.

CONCLUSION

Subject to the analysis above and the information provided, the Code of Ethics does not prohibit Employee from campaigning for or serving as a member of the Carmel Clay Schools Board of School Trustees while maintaining her General Counsel and Ethics Officer roles with DNR.

While a School Board matter that comes before Employee in her DNR role would not present a conflict of interests under IC 4-2-6-9, and while Employee's proposed notification and screening measures would comply with IC 4-2-6-9, to best avoid any appearance of a conflict and to reduce any appearance of impropriety, the Commission notes it would be appropriate for Employee to reach out (to the OIG or to the Commission) for additional fact-specific advice should she find herself in a situation in which her DNR and School Board roles would overlap.

Respectfully Submitted,



Will Deane
State Ethics Commission Director
Office of Inspector General