

**MINUTES OF THE MEETING OF  
THE INDIANA STATE ETHICS COMMISSION  
December 13, 2018**

**I. Call to Order**

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:02 a.m. Commissioner members present included James Clevenger, Chairperson; Sue Anne Gilroy; Priscilla Keith, and Corinne Finnerty. OIG Staff present included Jennifer Cooper, Ethics Director; Lori Torres, Inspector General; Tiffany Mulligan, Chief Legal Counsel; Kelly Elliott, Staff Attorney; Heidi Adair, Staff Attorney; Cindy Scruggs, Director of Administration; Darrell Boehmer, Director of Investigations; and Chuck Coffin, Special Agent.

Others present were Major Nila Miller-Cronk, ISP; Captain Jay Nawrocki, ISP; Lt. Brad Hoffeditz, ISP; Sarah Kamhi, AGC and Director ?, DOR; Latasha Higgins, Attorney and Ethics Officer, FSSA; Fred Madren, Chaplain/Educator, FSSA; Krysten LeFavour, Attorney, Worker’s Compensation Board; Matt Savage, Dep. General Counsel, DWD; Beth Green, General Counsel and Ethics Officer, DWD; Manda Clevenger, Attorney and Privacy Officer, ISDH; Chris Kulik, Staff Attorney, ISDH; Deana Smith, Attorney and Ethics Officer, ISDH; Tamera Glickman, Asst. General Counsel, IDOA; Jared Prentice, Ethics Officer, DOR; Chelsea Smith, ALJ and Ethics Officer, DHS; Zach Niceley, Special Assistant, Office of Attorney General; Mattheus Mitchel, Compliance and Ethics Specialist, DOR; Dhiann Kinsworthy-Blye, Controller, IPSC; Cyndi Carrasco, Dep. General Counsel, Office of the Governor; and Joe Heerens, General Counsel, Office of the Governor.

**II. Adoption of Agenda and Approval of Minutes**

Commissioner Finnerty moved to adopt the Agenda, and Commissioner Gilroy seconded the motion which passed (3-0). Commissioner Finnerty moved to approve the September 2018 meeting minutes, and Commissioner Gilroy seconded the motion which passed (3-0). (Commissioner Keith arrived at the meeting just after this vote).

**III. Inspector General’s Report**

Inspector General Torres provided her Inspector General’s report to the Commission including the number of informal advisory opinions issued and the number of investigations opened, closed and worked on during the third quarter of the year. IG Torres also reported on the OIG’s KPIs for the third quarter. KPI #1 – number of informal advisory opinions requested – was 87. KPI #2 – average number of business days to provide an informal advisory opinion – was 1.23. KPI #3 – number of recommendations made to reduce waste, inefficiency, fraud and improve integrity – was 4. IG Torres also reported that Phase 3 of the Ethics Officer is underway and almost complete. IG Torres also reported that the Legal and Ethics Conference took place on November 13, 2018.

IG Torres informed the attendees that Chairman Clevenger was retiring from the Commission effective December 31, 2018. She provided him with a certificate recognizing his fourteen years of service to the Commission. The Governor’s Office, represented by Deputy General Counsel

Cyndi Carrasco and General Counsel Joseph Heerens presented Chairman Clevenger with the Distinguished Hoosier Award for his service to the State of Indiana.

**IV. Request for Formal Advisory Opinion: Conflict of Interest**

**2018-FAO-0018 Capt. Jay Nawrocki, Logistics  
Maj. Nila Miller-Cronk, Ethics Officer  
Indiana State Police**

Major Nila Miller-Cronk is the Ethics Officer for the Indiana State Police (ISP). Maj. Miller-Cronk is requesting an advisory opinion on behalf of Captain Jay Nawrocki, who serves in ISP's Logistics Section.

In his position with ISP, Capt. Nawrocki administers the day-to-day management of ISP's vehicle fleet. He gathers information and makes recommendations to his commanding officer and primary staff on new vehicle needs. He also makes recommendations on the number of vehicles ISP should purchase based on their current and anticipated needs.

Maj. Miller-Cronk provides that ISP does business with and makes purchases from Fiat Chrysler Automobiles (FCA) relating to ISP commission vehicles. The Indiana Department of Administration (IDOA) also purchases vehicles from FCA for ISP's vehicle fleet. ISP is currently using Dodge Chargers as their primary patrol vehicle. Capt. Nawrocki has had three meetings in three years with FCA representatives regarding engine and power steering problems with ISP vehicles.

Maj. Miller-Cronk provides that FCA has invited Capt. Nawrocki to serve as a member on their Police Advisory Board (the Board). It is Capt. Nawrocki's understanding that he would serve as a representative for ISP on the Board. Maj. Miller-Cronk provides that the driving force behind the Board is a desire to continue to make improvements in safety and technology to law enforcement products. The goal of the Board is to facilitate discussions between police fleet professionals and FCA fleet representatives regarding sales, engineering, support and service.

The Board is a board of advisors only, and Capt. Nawrocki's position on the Board would be only advisory in nature. Board members provide open and honest input and feedback regarding matters before the Board. They also bring forth issues and concerns that they or their agency may be experiencing and discuss future products. Capt. Nawrocki would not have the ability to cast a vote on any matters before the Board.

Maj. Miller-Cronk explains that Capt. Nawrocki's membership on the Board would be considered part of his official state duties. He would not receive any additional compensation from FCA for serving on the Board. Maj. Miller-Cronk provides that the Board meets once per year, and FCA offers to cover travel expenses to the meeting for Board members; however, Maj. Miller-Cronk states that should Capt. Nawrocki's membership on the Board be approved, ISP will pay for his travel expenses to the yearly Board meeting.

Maj. Miller-Cronk is seeking a formal advisory opinion from the Commission to determine whether, under the Code of Ethics (Code), it would be acceptable for Capt. Nawrocki to serve on the Board.

The advisory opinion stated the following analysis:

Maj. Miller-Cronk's request for a formal advisory opinion invokes consideration of the provisions of the Code pertaining to conflicts of interests, gifts, and confidential information. The application of each provision to Capt. Nawrocki is analyzed below.

*A. Conflict of interests - decisions and votes*

IC 4-2-6-9 (a)(1) prohibits Capt. Nawrocki from participating in any decision or vote, or matter relating to that decision or vote, if he has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(3) prohibits Capt. Nawrocki from participating in any decision or vote, or matter relating to that decision or vote, if he or a business organization in which he serves as a member has a financial interest in the outcome. In addition, the rule requires a state employee who recognizes a potential conflict of interests to notify his agency'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 the Office of Inspector General.

Capt. Miller-Cronk provides that ISP does business with and makes purchases from FCA relating to ISP commission vehicles. IDOA also purchases vehicles from FCA for ISP's vehicle fleet. In Capt. Nawrocki's position with ISP, he administers the day to day management of ISP's vehicle fleet and makes recommendations regarding the number of vehicles ISP should purchase. As such, it appears that Capt. Nawrocki is in a position to participate in decisions or votes, or matters related to those decisions or votes, in which FCA would have a financial interest in the outcome. As a member of the Police Advisory Board of FCA, Capt. Nawrocki is a "member" of FCA.

The Commission finds that Capt. Nawrocki has an identified potential conflict of interests under IC 4-2-6-9(a)(3) as he would be in a position at ISP to participate in decisions or votes, or matters related to those decisions or votes, in which FCA would have a financial interest in the outcome. Accordingly, Capt. Nawrocki must notify ISP's appointing authority of the potential conflict of interests, and ISP will need to screen him from participating in all decisions or votes in which FCA would have a financial interest. The Commission confirmed with Maj. Miller-Cronk that ISP is prepared to implement such a screen. ISP shall provide the proposed screen to the State Ethics Director for approval via filing the Conflict of Interests-Decisions and Voting disclosure form with the Office of Inspector General.

*B. Gifts*

Capt. Nawrocki also will want to be aware of 42 IAC 1-5-1, which is the gift rule. The gift rule states, in part, that a state employee shall not knowingly solicit, accept, or receive any gift, favor, service, entertainment, food, drink, travel expenses, or registration fees from: (1) a person who has a business relationship with the employee's agency; or (2) a person who is seeking to influence an action by the employee in his official capacity.

"Business relationship" is defined in IC 4-2-6-1(a)(5) to include the dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing (i) a pecuniary interest in a contract or purchase with an agency; (ii) a license or permit requiring the exercise of an agency's judgment or discretion; or (iii) a lobbyist.

The general prohibition on gifts is subject to the eight exceptions outlined in subsection (b) of 42 IAC 1-5-1, or its application in certain circumstances may be waived by the agency's appointing authority as provided for in subsections (c) and (d).

Maj. Miller-Cronk provided that ISP does business with and makes purchases from FCA relating to ISP commission vehicles. IDOA also purchases vehicles from FCA for ISP's vehicle fleet. As such, FCA has a business relationship with ISP and Capt. Nawrocki is prohibited from accepting any gifts from FCA unless an exception applies or he obtains a gift waiver. Maj. Miller-Cronk indicated that ISP is aware of the implications of Capt. Nawrocki accepting any gift, including travel expenses from FCA. Therefore, ISP will pay Capt. Nawrocki's travel expenses to the yearly Board meeting he is expected to attend as a member of the Board.

### *C. Confidential information*

Capt. Nawrocki is prohibited under 42 IAC 1-5-10 and 42 IAC 1-5-11 from benefitting from, permitting any other person to benefit from, or divulging information of a confidential nature except as permitted or required by law. To the extent that Capt. Nawrocki will possess information of a confidential nature by virtue of his position with ISP that could be used to benefit the Board or FCA, or any other person, he must ensure that he complies with these rules.

The Commission found that Capt. Nawrocki would have a potential conflict of interests under IC 4-2-6-9 if he were to participate in decisions or votes, or matters related to such decisions and votes in matters in which FCA would have a direct financial interest in the outcome of the matter. The Commission further finds that ISP will implement a screening mechanism to ensure Capt. Nawrocki does not participate in any decisions or votes, or matters relating to such decisions and votes, in which FCA has a financial interest.

Commissioner Finnerty moved to approve the Commission's findings. Commissioner Gilroy seconded the motion which passed (4-0).

**V. Request for Formal Advisory Opinion: Outside Employment**

**2018-FAO-0019 Fred Madren, Jr., Chaplain/Educator  
Latosha Higgins, Ethics Officer  
Family & Social Services Administration**

Latosha Higgins is the Ethics Officer for the Indiana Family and Social Services Administration (FSSA). Ms. Higgins is requesting an advisory opinion on behalf of Fred Madren, Jr., M.Div. BCC CPES. Mr. Madren is the Chaplain/Educator at Larue D. Carter Memorial Hospital (Larue Carter), which is overseen by FSSA. Specifically, Ms. Higgins is requesting an opinion from the Commission addressing whether it would be a conflict of interests for Mr. Madren to continue his outside employment as a nationally board certified chaplain educator with the Institute for Clinical Pastoral Training (ICPT), while an FSSA employee.

Mr. Madren joined FSSA, through the Division of Mental Health and Addiction, in May 2018. His responsibilities include directing an participating in a full pastoral care program at Larue Carter. He functions as a staff advisor on all problems involving the spiritual needs of patients and staff. Additionally, his position requires him to direct and/or participate as an educator in an accredited clergy education program. When Mr. Madren accepted his position with FSSA, it was on the condition that he would be able to provide training in clinical pastoral education (CPE).

In addition to his work at Larue Carter, Mr. Madren also works as a contract employee for ICPT as an ICPT supervisor. ICPT offers a standardized and evidenced CPE training program to chaplains and spiritual care providers. As a contract CPE supervisor for ICPT, Mr. Madren receives a set amount of funds for each student that he teaches. He teaches as a CPE supervisor at is home, and outside of his scheduled work hours at Larue Carter. Students pay ICPT \$1200.00 for a twelve week training that is similar to a college course. At the end of the twelve week course, ICPT pays Mr. Madren one-third of the amount it collected from the students he supervised.

CPE is an interfaith experience in a supervised group setting that focuses on the theological, personal, and professional growth of a person. It is based on an action/reflection model. A student experiences 100 hours of education and 300 clinical hours with patients in either a 12 week full-time unit or a 24 week part-time unit.

Ms. Higgins provides that FSSA does not currently have a business relationship with ICPT; however, Larue Carter is in the process of restarting its CPE program with the goal of having it active for the move to the NeuroDiagnostic Institute (NDI). FSSA is awaiting the accreditation of ICPT through the United States Department of Education before proceeding. It is anticipated that a decision will be rendered in December 2018. Mr. Madren is not involved in any aspect of the accreditation process, nor is he in a position as Chaplain/Educator to

participate in any decisions or votes or other matters related to a vote in which ICPT would have a financial interest. Furthermore, Mr. Madren does not have any contracting authority on behalf of FSSA.

Based on the information presented to Ms. Higgins, FSSA believes that Mr. Madren's contract employment with ICPT is not currently incompatible with his duties at FSSA, nor does it require recusal from his official responsibilities. Ms. Higgins advises that his outside employment is consistent with his responsibilities as an FSSA employee; his employment with ICPT has equipped him with the relevant skills needed to be successful in his position. If FSSA enters into an agreement with ICPT, as the Larue Carter Chaplain, Mr. Madren would be responsible for reviewing student applications and deciding whether to accept students into the program. He would also be responsible for visiting schools to recruit students and directing students to the ICPT website to register. Further, if FSSA enters into an agreement with ICPT, and Mr. Madren commences performing his duties as the CPE supervisor, he would not accept payment from ICPT for services rendered in his official position with FSSA.

Given that there is the potential for a business relationship to soon be established between FSSA and ICPT, FSSA seeks a formal advisory opinion regarding whether Mr. Madren may continue his contract employment with ICPT as a CPE supervisor if FSSA and ICPT enter into a business relationship.

The Commission agreed to hold the decision and not issue a Formal Advisory Opinion until such time as the requestor produced a screening mechanism and additional information on how FSSA would address the conflict of interests concerns raised by the Commission. Commissioner Finnerty moved to approve the Commission's findings and Commissioner Gilroy seconded the motion which passed (4-0).

## **VI. Request for Formal Advisory Opinion: Post-Employment**

### **2018-FAO-0020 Krysten Lester-LeFavour Former Member, Worker's Compensation Board**

Krysten Lester-LeFavour, a former employee of the Indiana Worker's Compensation Board, is requesting a Formal Advisory Opinion regarding her post-employment as an attorney representing injured workers.

Ms. Lester-LeFavour retired from her position with the State of Indiana on October 19, 2018. Ms. Lester-LeFavour had served as an employee of the Worker's Compensation Board (WCB) since 2004. She was appointed as a board member by then Governor Mitch Daniels in 2007. As a member of the WCB, she was responsible for conducting hearings and making decisions regarding an employee's right to compensation and benefits under the Indiana Worker's Compensation Act. The powers and duties of the WCB are set forth in Ind. Code 22-3-1-1. Ms. Lester-LeFavour, as a board member, was not responsible for and did not engage in the negotiation of any contracts on behalf of the WCB. She notes that the WCB does not make payment of benefits or compensation but rather is a neutral arbitrator of disputes.

Ms. Lester-LeFavour's post-employment position would consist of the private practice of law on behalf of injured workers who have not previously filed a disputed claim with the WCB. Ms. Lester-LeFavour notes that she will not represent injured workers who had a pending claim before the WCB while she was a board member. Additionally, she will not represent employers who had cases before the WCB when she was a member.

Ms. Lester-LeFavour is seeking confirmation through this Formal Advisory Opinion that her planned post-employment practice of law would not violate IC 4-2-6-11.

The advisory opinion stated the following analysis:

Ms. Lester-LeFavour's post-employment opportunity in private law practice implicates the provisions of the Code pertaining to confidential information and post-employment. The application of each provision to Ms. Lester-LeFavour's prospective post-employment law practice is analyzed below.

*A. Confidential Information*

IC 4-2-6-6 prohibits Ms. Lester-LeFavour 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. Based on the information provided, it does not appear that Ms. Lester-LeFavour would utilize confidential information in her private law practice. So long as any compensation Ms. Lester-LeFavour receives does not result from confidential information, her post-employment in her private law practice would not violate IC 4-2-6-6.

*B. Post-Employment*

IC 4-2-6-11 consists of two separate limitations: a "cooling off" period and a "particular matter" restriction. The first prohibition, commonly referred to as the cooling off or revolving door period, prevents Ms. Lester-LeFavour from accepting employment from an employer for 365 days from the date that she leaves state employment under various circumstances. Employer is defined in IC 4-2-6-1(a)(10) as any person from whom a state employee receives compensation; therefore, it includes a client or customer of a self-employed individual.

First, Ms. Lester-LeFavour is prohibited from accepting employment as a lobbyist for the entirety of the cooling off period. 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).

Ms. Lester-LeFavour does not anticipate engaging in any lobbying activities in her private legal practice. To the extent that Ms. Lester-LeFavour does not engage in

executive branch lobbying for one year after leaving state employment, she would not violate this provision of the post-employment rule.

Second, Ms. Lester-LeFavour is prohibited from accepting employment for 365 days from the last day of her state employment from an employer with whom 1) she engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of the contract. Ms. Lester-LeFavour provides that her WCB position did not involve any sort of contracting responsibility.

Based on the information provided, Ms. Lester-LeFavour has never participated in the negotiation or administration of a contract nor was she in a position to make a discretionary decision affecting the outcome of the negotiation or administration of any contract with any potential employer or clients of her potential private practice during the course of her state employment. Accordingly, the Commission finds that this provision would not apply to Ms. Lester-LeFavour's post-employment in her private law practice.

Third, Ms. Lester-LeFavour is prohibited from accepting employment for 365 days from the last day of her state employment from an employer for whom she made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary.

Ms. Lester-LeFavour's duties with the WCB may have amounted to making "regulatory" decisions; therefore, she may be prohibited from being employed by any parties to such decisions until the lapse of 365 days from the date she left state employment.

Based on the information provided, Ms. Lester-LeFavour would be engaging in private practice as a sole proprietor or join a firm that did not previously handle workers compensation issues that came before the WCB while she was a board member. To the extent that she would not then be an employee of anyone who had a case pending or adjudicated during her time on the WCB until October 19, 2019, she would not be in violation of this rule. Accordingly, the Commission finds that this provision would not apply to her intended post-employment in a private law practice so long as she does not accept compensation from any individuals who were subject to any regulatory decisions she made as a member of the WCB.

Fourth, Ms. Lester-LeFavour is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer's purpose is to influence her in her official capacity as a state employee. The information Ms. Lester-LeFavour presented to the Commission does not suggest that any offer of employment she would receive through her law practice would be extended in an attempt to influence her in her official capacity, especially since she is already retired from state employment. Accordingly, the Commission finds that this restriction would not apply to her intended post-employment opportunity.

Finally, Ms. Lester-LeFavour is subject to the post-employment rule's "particular matter" prohibition in her prospective post-employment. This restriction prevents her from

representing or assisting a person on any of the following twelve matters if she personally and substantially participated in the matter as a state employee: 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 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.

It appears that Ms. Lester-LeFavour personally and substantially participated in claims and determinations as part of her role with the WCB. Thus, the Commission finds that she would be prohibited from representing or assisting a firm or client in the particular matters in which she substantially participated as a state employee. However, she is not prohibited from working on any *new* matters that involve workers compensation claims before the WCB.

The Commission found that Ms. Lester-LeFavour's post-employment plans would not violate the post-employment restrictions found in IC 4-2-6-11.

Commissioner Gilroy moved to approve the Commission's findings and Commissioner Keith seconded the motion which passed (4-0).

**VII. Consideration of Agreed Settlement  
In the Matter of Arvin Copeland/Case Number 2017-10-0234  
Kelly Elliott, Staff Attorney  
Office of Inspector General**

Kelly Elliott presented a brief review of the case regarding the allegations against Arvin Copeland. Thereafter, Ms. Elliott requested that the Commission approve the Agreed Settlement, which fined Mr. Copeland Seven Thousand Dollars (\$7,000.00) for his ethics violations to be paid within sixty (60) days. After the Commission discussed the matter, Commissioner Gilroy moved to approve the Agreed Settlement and Commissioner Keith seconded the motion which passed (4-0).

**VIII. Director's Report**

State Ethics Director, Jen Cooper, stated that since the last Commission meeting (September), the Office of Inspector General had issued 63 informal advisory opinions on the subjects of post-employment restrictions, conflicts of interests, outside employment, the use of state property, and gifts.

Ms. Cooper also stated that OIG had held the Legal & Ethics Conference in November and recognized two Ethics Officers (Latosha Higgins of FSSA; Deana Smith of ISDH) for their outstanding efforts as Ethics Officers in 2018.

**IX. Adjournment**

Commissioner Finnerty moved to adjourn the public meeting of the State Ethics Commission and Commissioner Keith seconded the motion which passed (4-0).

The public meeting adjourned at 11:34 a.m.

INDIANA  
OFFICE OF INSPECTOR GENERAL

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

**Report of Inspector General to  
State Ethics Commission  
2018 Q4 and Year End**

1. IAOs: Q4 October 1 – December 31:
  - a. 83 issued in Q4, 321 for 2018.
    - i. Compares to 78 issued in Q3 2018
    - ii. Compares to 107 in Q4 in 2017
    - iii. 2017 we issued 371
2. Investigations: Q4 October 1 – December 31:
  - a. 73 Requests to Investigate, 341 for 2018
    - i. Compares to 90 in Q3
    - ii. Compares to 82 in Q4 in 2017
    - iii. 297 requests in 2017
  - b. 16 New investigations opened by our office
    - i. Compared to 18 in Q3
    - ii. Compared to 15 in Q4 2017
    - iii. 65 investigations opened in 2018
  - c. 15 Closed investigations
    - i. Compared to 10 closed in Q3
    - ii. Compared to 24 closed Q4 in 2017
    - iii. 52 investigations closed in 2018
    - iv. 38 of 52 closed case reports are published on the website
3. KPI's for Q4
  - a. KPI #1 - Number of informal advisory opinions (“IAO”s) requested **Q4: 85 2018: 363**
  - b. KPI #2 - Average number of business days to provide an IAO **Q4: 1.0 2018: 1.2**
  - c. KPI #3 - Number of recommendations made to reduce waste, inefficiency, fraud and improve integrity. **Q4: 11 recommendations in 6 public reports. 2018: 38 in 16 public reports and 2 confidential reports**
4. SEC Work
  - a. 6 Post-Employment Waivers heard and approved
  - b. 18 FAO's issued
  - c. 2 formal matters brought before the board
    - i. 1 resolved by settlement
    - ii. 1 remains pending
  - d. 1 policy approved, specifically a Limited Use of State Property Policy
5. Ethics Officer Audit Phases 1- 4 – complete
6. Update on appointment of 5<sup>th</sup> commissioner to replace outgoing chair, James Clevenger



# INDIANA STATE BOARD OF EDUCATION

## MEMORANDUM

**To:** Jennifer Cooper, State Ethics Director, Indiana Inspector General's Office;  
State Ethics Commission  
**From:** Tim Schultz, General Counsel, Indiana State Board of Education (Ethics Officer)  
**Date:** January 10, 2019  
**Re:** Request for Formal Advisory Opinion Regarding Matt Voors

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Pursuant to the Indiana Ethics Commission's authority under IC 4-2-6-4(b)(1)(A)(ii)<sup>1</sup> and 40 IAC 2-2-1<sup>2</sup>, Matthew Voors, Executive Director ("ED") for the Indiana State Board of Education ("Board"), seeks an Formal Advisory Opinion from the State's Ethics Commission ("Commission"), regarding an offer of employment from Project Lead the Way ("PLTW").

Since learning of the position at PLTW, Mr. Voors notified the undersigned, as Ethics Officer and General Counsel for the Board, of the opportunity and worked with him to develop a screening procedure to ensure Mr. Voors was removed from any issues involving or relating to PLTW. Additionally, on November 2, 2018, the undersigned prepared and submitted a request for an informal advisory opinion to the Office of Inspector General ("OIG") seeking its guidance. On November 9, 2018, the OIG issued an informal advisory opinion confirming Mr. Voors' acceptance of the position would not violate Indiana ethics rules. While the informal advisory opinion issued by the OIG did not foresee any issues with Mr. Voors' employment with PLTW, Mr. Voors seeks a formal advisory opinion from the Commission to confirm no ethics issues are presented with regard to the offer of employment with PLTW. For convenience, background information has been provided below detailing: (1) the responsibilities of the Board; (2) Mr. Voors' responsibilities and duties serving the Board as the ED, as well as the responsibilities and duties the position with PLTW would entail; and (3) an analysis of the relevant ethics rules as applied to the facts provided is also included.

### I. ESTABLISHMENT, DUTIES AND RESPONSIBILITIES OF THE BOARD

The Board was established by the Indiana General Assembly, and oversees K-12 education policy making in the State. The bipartisan Board is composed of eleven (11) members, including the Superintendent of Public Instruction ("SPI"). Other than the SPI, who is elected every four years, the remaining ten (10) members are appointed. Eight (8) members are appointed by the Governor and must include at least six (6) appointees with professional experience in the field of education, not more than one (1) appointee from a particular congressional district, and not more than five (5) appointees belonging to the same political party. The remaining two (2) Board members are appointed by the Speaker of the Indiana House Representatives and the President Pro Tempore of the Indiana Senate respectively.

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<sup>1</sup>IC 4-2-6-4(b) provides in pertinent part that "[t]he commission shall do the following: (1) Act as an advisory body by issuing advisory opinions to interpret this chapter, IC 4-2-7, or the rules adopted under this chapter or IC 4-2-7, upon: (A) request of: ... (ii) an employee or a former employee;"

<sup>2</sup> 40 IAC 2-2-1 (a) empowers the commission to "...render advisory opinions with respect to the interpretation and applicability of IC 4-2-6, this title, and any other statute or rule governing official conduct of state officers or employees."

Indiana Code 20-19-2 enumerates many of the responsibilities of the Board, which include authorizing the distribution of state education funds to local schools, adopting rules to implement various programs and requirements, determining a school's P.L. 221 performance and improvement category designation, accrediting public and nonpublic schools, and implementing interventions to improve school performance. Furthermore, IC 20-19-2-14 ("*Duties of state board*") explains that "the state board shall do the following: (1) establish the educational goals of the state, developing standards and objectives for local school corporations; (2) assess the attainment of the established goals; (3) assure compliance with established standards and objectives; (4) coordinate with the commission for higher education (IC 21-18-1) and the department of workforce development (IC 22-4.1-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force; (5) make recommendations to the governor and general assembly concerning the educational needs of the state, including financial needs; and (6) provide for reviews to ensure the validity and reliability of the ISTEP program."

## **II. MR. VOORS' DUTIES AND RESPONSIBILITIES**

### ***A. Duties and Responsibilities of the Board's Executive Director***

During its October of 2014 board meeting, the Board adopted a resolution identifying the job duties and responsibilities of the ED. *See Exhibit E*. Pursuant to the resolution, the Board's ED has the following duties:

- Act as the liaison between the Board and the Indiana Department of Education ("IDOE");
- Handle logistical, administrative and technical duties for the Board, including the Board website and Board meetings;
- Work with IDOE staff to create board agendas and meeting materials in advance of each Board meeting;
- Compile and monitor the accuracy of the documents and other materials needed for Board agenda items;
- Act as an advisor to the Board on special education and other underserved populations;
- Respond to requests for technical support from Board members during and between Board meetings;
- Serve as the appointing authority for purposes of Indiana Code 4-2-6 and 42 IAC (ethics and conflicts of interest);
- Conduct educator outreach and engagement;
- Execute and deliver any documents on behalf of the Board related to matters that require Board action, including hearings and adjudications; Consistent with the laws and regulations administered by the Indiana Department of Administration ("IDOA") and the Office of Management and Budget ("OMB"); and subject to review for form and legality by the Office of the Indiana Attorney General ("OAG"), has the authority to negotiate the terms of any contract or amendment to any contract, including the scope of work or description of deliverables, and execute any contract or amendment to any contract that does not exceed \$75,000 to be spent prior to the stated termination date of the contract or amendment in furtherance of projects or programs that have been approved by the Board.

Any contract that exceeds \$75,000 to be spent prior to the stated termination date of the contract or amendment shall require the express approval of the Board. For the purposes of this grant of authority, the terms "contract" and "amendment" also include any Memorandum of Understanding, Memorandum of Agreement, other such agreement or amendment thereto;

- Direct work of General Counsel; and
- Perform any other duties as specifically requested by the Board.

Finally, the ED has the authority to delegate any function, authority or task to any person as he may deem necessary or desirable to effectively perform his duties or tasks for the Board.

As noted above, the ED does participate in the negotiation and administration of all Board contracts. Further, although the ED does not make any final regulatory or licensing decisions on behalf of the Board, as the Board members are the final decision-makers for such matters, he may be involved in the discussions with Board members prior to final actions taken by the Board members. Additionally, to the extent that such matters arise during the course of the Board's regular administrative functions, the ED may be involved in the review, processing, or decision-making with respect to any applications, business transactions, general claims, contracts, administrative determinations, enforcement proceedings, Board investigations, judicial proceedings, lawsuits, licensing issues, economic development projects, and/or public works projects.

#### ***B. Duties and Responsibilities of PLTW's Vice President of Legal Affairs***

PLTW is a non-profit organization headquartered in Indianapolis that provides science, technology, engineering, and math programs nationwide. PLTW creates programs that assist students to develop in-demand, transportable skills – such as problem solving, critical and creative thinking, collaboration, and communication – that they will use both in school and for the rest of their lives, on any career path they take. As PLTW students progress through grades K-12, they are empowered to explore career paths, engage in problem solving and process thinking, develop technical knowledge and skills, and build communication skills. As part of developing the programs referenced above, PLTW provides teachers with professional development and the continual support and resources they need to implement the program with fidelity to the engaging activity, project, and problem-based (APB) instructional design model. The APB approach scaffolds student learning through structured activities and projects that empower students to become independent in the classroom and helps them build skill sets to apply to an open-ended design problem. PLTW contracts with individual schools and school corporations to provide access to its learning programs, services, and resources. Currently, Dr. Bertram is President and Chief Executive Officer of PLTW and served as a member of the Board from May, 2015, until November, 2018.

As the Vice President of Legal Affairs for PLTW (*See Exhibit A* for a copy of the job description for the Vice President of Legal Affairs position with PLTW.), Mr. Voors' primary duties and responsibilities will be to support the Chief Legal and Assessment Officer with managing the design and execution of PLTW legal instruments and strategy. This position will work collaboratively across the organization, and especially closely with Team Members from Legal, Finance, Operations, Engagement, and Programs to support continued growth and development and mitigate risk. Specifically, the job description for the Vice President of Legal Affairs provides that he/she shall:

- Participate and assist in the definition and development of policies, procedures, and programs;
- Provide general business and practical advice concerning business operations;
- Draft memorandums regarding potential outcomes and/or effects of business transactions;
- Review and update agreements associated with business activities within company standards and policies;
- Write contractual agreements;
- Review, draft, and negotiate contract agreements;
- Conduct necessary legal research;
- Ensure that PLTW conducts its business in compliance with all applicable laws and regulations;
- Proactively review internal legal documents and recommend updates in accordance with PLTW strategy;
- Perform such other duties as are incidental to the position of Senior Vice President/Chief Legal and Assessments Officer and as are reasonably assigned by the Chief Executive Officer; and
- Other duties as assigned.

As Vice President of Legal Affairs, Mr. Voors will exclusively focus the legal aspects of PLTW and will not serve as a lobbyist or perform any actions as a lobbyist on behalf of PLTW.

### **III. ANALYSIS**

Pursuant to IC 4-2-6-1, Mr. Voors is a “state employee”, and therefore subject to the State’s ethics statutes and rules, including the post-employment restrictions found at IC 4-2-6-11. While Mr. Voors is subject to IC 4-2-6-11, this provision applies *only if* circumstances exist with respect to his position as ED that triggers its application.

#### ***A. Relevant Legal Authorities***

##### **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.

##### **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.

#### **IC 4-2-6-11 (42 IAC 1-5-14)**

#### **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.

### ***B. Application of Relevant Legal Authorities to the Facts***

The undersigned does not believe that the post-employment restrictions under IC 4-2-6-11 (IAC 42 IAC 1-5-14) are triggered when analyzing Mr. Voors' job duties and responsibilities as ED and the job duties and responsibilities of PLTW's Vice President of Legal Affairs. Further, the informal advisory opinion attached hereto as *Exhibit B* supports the contention that the post-employment restrictions are not implicated by the acceptance of the position with PLTW. Although not a formal opinion from the Ethic's Commission, the OIG's analysis in the informal opinion is instructive in concluding that Mr. Voors' potential employment with PLTW does not trigger the State's post-employment restrictions based on the information provided to the OIG by the undersigned Ethics Officer.

As explained above, the ED's role with respect to the negotiation and administration of contracts for the Board is limited as a result of the ED job description adopted by the Board (see footnote 1). Although the ED may participate in the negotiation and administration of Board contracts, as noted above, the ED *only* has final approval authority for those contracts that do not exceed \$75,000. Furthermore, during the course of Mr. Voors' employment, the Board did not have any active contracts or contract negotiations involving PLTW.

Although the ED does not make any final regulatory or licensing decisions on behalf of the Board, as the Board members are the final decision-makers for such matters, he is involved in the discussions with Board members prior to final actions taken by the Board. Additionally, to the extent that such matters arise during the course of the Board's regular administrative functions, the ED may be involved in the review, processing, decision-making of any applications, business transactions, general claims, contracts, administrative determinations, enforcement proceedings, Board investigations, judicial proceedings, lawsuits, licensing issues, economic development projects, and/or public works projects.

However, despite Mr. Voors participation in the managerial, administrative, and decision-making responsibilities of the Board, none of these responsibilities will create a conflict with the job duties and responsibilities of the Vice President of Legal Affairs for PLTW. The absence of conflict is the result of the lack of a contractual relationship between the Board and PLTW and the type of work Mr. Voors would perform as PLTW's Vice President of Legal Affairs compared to his current responsibilities on behalf of the Board.

**1. Confidential Information**

Indiana Code 4-2-6-6 prohibits an employee from accepting any compensation from any employment, transaction, or investment that was entered into or made as a result of material information of a confidential nature. In this situation, Mr. Voors has confirmed that he would not be required to utilize any confidential information in his prospective employment with PLTW. So long as any compensation Mr. Voors receives does not result from confidential information, his potential employment with PLTW would not violate IC 4-2-6-6.

**2. Conflict of Interests**

Indiana Code 4-2-6-9(a)(1) prohibits an employee from participating in any decision or vote, or matter related to that decision or vote, if he has a financial interest in the outcome of the matter. Similarly, IC 4-2-6-9(a)(4) prohibits him from participating in any decision or vote, or matter related to that decision or vote, in which a person or organization with whom he is negotiating or has an arrangement concerning prospective employment has a financial interest in the outcome of the matter. The definition of financial interest in IC 4-2-6-1(a)(11) includes, "an interest arising from employment or prospective employment for which negotiations have begun." Further, Indiana Code 4-2-6-9(b) requires that an employee who identifies a potential conflict of interests notify their Ethics Officer and Appointing Authority and seek an advisory opinion from the Commission or file a written disclosure statement.

In this case, Mr. Voors participated in an interview on October 26, 2018, after which, employment negotiations took place and an offer was extended. Accordingly, the employee is prohibited from participating in any decision or vote, or matter related to a decision or vote, in which PLTW would have a financial interest in the outcome of the matter. Additionally, the undersigned, as Ethics Officer, represents that Mr. Voors informed him of his employment negotiations with PLTW and that he has been screened from all PLTW matters. As a result of the screening procedures, Mr. Voors has submitted two "Conflicts of Interest" disclosure forms to the OIG, after the Board's Ethics Officer identified a number of potential ethics issues stemming from the agenda items on the Board's November and December business meetings. *See Exhibits C & D*, attached.

In addition to filing the disclosure forms with the OIG, Mr. Voors has informed his appointing authority, the Governor, through the Governor's Chief of Staff, Earl Goode, of the potential conflict arising from employment negotiations. While the employment negotiations are ongoing, Mr. Voors will not engage in discussions with any Board member regarding that agenda item prior to the Board's business meeting that pertains to PLTW.

### **3. Post-Employment**

Indiana Code 4-2-6-11 consists of two separate limitations: a “cooling off” period and a “particular matter” restriction.

#### **a. “Cooling Off” Period**

The first prohibition, commonly referred to as the cooling off or revolving door period, prevents the employee from accepting employment from an employer for 365 days from the date that he leaves state employment under various circumstances. Specifically, the employee is prohibited from accepting employment as a lobbyist for the entirety of the cooling off period. 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). The position for which Mr. Voors has applied does not include lobbying activities as part of the job duties, nor does Mr. Voors anticipate engaging in any lobbying activities in his prospective employment with PLTW.

Second, the employee is prohibited from accepting employment for 365 days from the last day of his state employment from an employer with whom 1) he engaged in the negotiation or administration of a contract on behalf of a state agency and 2) was in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administrative contract.

The Board’s Ethics Officer confirms that during the course of Mr. Voors’ employment, the Board did not have any active contracts or contract negotiations involving PLTW. Thus, this restriction does not apply to Mr. Voors.

Third, Mr. Voors is prohibited from accepting employment for 365 days from the last day of his state employment from an employer for whom he made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary. As Mr. Voors has not made any regulatory or licensing decisions during his state employment that specifically pertain to PLTW, this restriction is not triggered. Consequently, he is not prohibited under this provision from accepting employment with PLTW immediately upon leaving state employment.

Fourth, Mr. Voors is prohibited from accepting employment from an employer if the circumstances surrounding the hire suggest the employer’s purpose is to influence him in his official capacity as a state employee. As Mr. Voors does not participate in final actions of the Board, and has not engaged in any contracting/regulatory/licensing activities involving the Board and PLTW, there is no basis to suggest that PLTW has extended an offer of employment to Mr. Voors in an attempt to influence him in his capacity as a state employee.

### **b. “Particular Matter” Prohibition**

Mr. Voors is subject to the post-employment rule’s “particular matter” prohibition in his prospective post-employment. This restriction prevents him from representing or assisting a person on any of the following twelve matters if he personally and substantially participated in the matter as a state employee: 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 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. Neither Mr. Voors nor the Board’s Ethics Officer are aware of any “particular matters” between the Board and PLTW during Mr. Voors’ employment with the Board. However, if Mr. Voors were to become aware of a “particular matter” involving his work with the Board and PLTW, he affirms that he would not participate in such a matter as part of his potential employment with PLTW.

### **C. Prior Board Actions Pertaining to PLTW**

During the course of Mr. Voors’ time with the Board, there have been a number of instances in which PLTW was potentially impacted. First, in December of 2017, the Board held discussions and conducted a vote in regards to the adoption of the State’s Graduation Pathways,<sup>4</sup> which contained new graduation requirements for Indiana students. The Board also voted to adopt Career and Technical Education (“CTE”) funding recommendations, developed by the Indiana Department of Workforce Development. The votes in question impacted all similarly situated providers of CTE courses and content, such as PLTW, in the same manner.

Second, during the Board’s July 2018 business meeting, the Board considered and voted to adopt a guidance document pertaining to Graduation Pathways. The guidance document specifically referenced PLTW courses and/or products. These references were derived from existing CTE courses identified on IDOE’s website as well as recommendations provided by IDOE. Similar to the December 2017 vote, this vote impacted all similarly situated providers of CTE courses and content, such as PLTW, in the same manner.

Additionally, as previously discussed, during the Board’s November 2018 business meeting, the Board was set to vote on an issue that resulted in Mr. Voors filing a disclosure form with the OIG. Specifically, the Board voted to revise the definition of the “Career-Technical Education Concentrator” option contained in the “Postsecondary-Ready Competencies” requirement in both the Final Graduation Pathway Requirements (adopted December, 2017) and Pathway Guidance document (adopted July, 2018). As a provider of CTE programs, PLTW would potentially be impacted by the revised definition of “Career-Technical Education Concentrator.” However, it should be noted that this vote impacted all similarly situated entities, such as PLTW, in the same manner. Given the potentially tenuous connection between the vote and the potential impact that those duties could have on PLTW, Mr. Voors did not participate in the Board discussions relating to this issue, and filed the previously noted disclosure form with the OIG.

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<sup>4</sup> See IC 20-32-4-1.5.

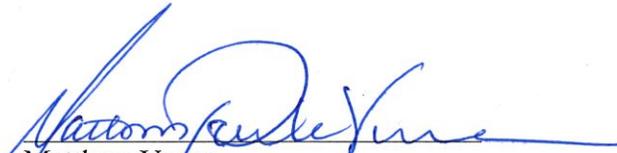
Finally, and again as previously noted, during the Board's December 2018 business meeting, the Board was set to vote on an issue that resulted in Mr. Voors filing a disclosure form with the OIG. Specifically, the Board voted on the "2019-20 Course Title and Descriptions" and the "CTE Concentrator Courses." Similar to the November 2018 vote, as a provider of CTE programs, PLTW would potentially be impacted by the Board's decision. Again, the vote impacted all similarly situated entities, such as PLTW, in the same manner. Given the potentially tenuous connection between the vote and the potential impact that those duties could have on PLTW, Mr. Voors did not participate in the Board discussions relating to this issue, and filed the previously noted disclosure form with the OIG.

Prior to his employment negotiations with PLTW, in his role as the Board's ED, Mr. Voors participated in general discussions involving the situations described above, but not the final vote. Once the negotiations began, Mr. Voors recused himself from the Board's deliberations. Therefore, these situations do not trigger the State's post-employment restrictions due to the limited and non-contractual relationship between Mr. Voors and PLTW.

### III. Conclusion

Mr. Voors appreciates both the Commission's and the OIG's time and attention to this request. If additional information is needed, please contact the Board's designated ethics officer, Timothy Schultz ([TSchultz1@sboe.in.gov](mailto:TSchultz1@sboe.in.gov) or 317-233-4088). Thank you.

Respectfully submitted,



Matthew Voors  
Executive Director  
Indiana State Board of Education



Timothy Schultz  
General Counsel & Ethics Officer  
Indiana State Board of Education



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## Vice President of Legal Affairs

Regular Full-Time

3 days ago

Indianapolis Office, Indianapolis, IN, US

Requisition ID : 1267

The **Vice President of Legal Affairs** supports the Chief Legal and Assessment Officer with managing the design and execution of PLTW legal instruments and strategy. This position will work collaboratively across the organization, and especially closely with Team Members from Legal, Finance, Operations, Engagement, and Programs to support continued growth and development and mitigate risk.

### RESPONSIBILITIES

- Participate and assist in the definition and development of policies, procedures, and programs
- Provide general business and practical advice concerning business operations
- Draft memorandums regarding potential outcomes and/or effects of business transactions
- Review and update agreements associated with business activities within company standards and policies
- Write contractual agreements
- Review, draft, and negotiate contract agreements
- Conduct necessary legal research
- Ensure that PLTW conducts its business in compliance with all applicable laws and regulations
- Proactively review internal legal documents and recommend updates in accordance with PLTW strategy
- Perform such other duties as are incidental to the position of Senior Vice President/Chief Legal and Assessments Officer and as are reasonably assigned by the Chief Executive Officer
- Other duties as assigned

### QUALIFICATIONS

#### Knowledge

- Juris Doctor degree from an accredited institution is required
- License to practice law in the state of Indiana

#### Skills and Abilities

- Demonstrated experience as a practicing attorney experience in multiple of the following areas: education law, intellectual property, products, and/or business and corporate areas (contracts, tax, nonprofit law, governance)

Recruitment

- Demonstrated experience in a leadership position, preferable in a legal setting
- Ability to execute work within communicated parameters
- High level of integrity and discretion
- Highly collaborative style, with a background and expertise in managing large-scale projects that involve multifaceted issues
- Experienced presenting material in professional conference settings
- Complex problem-solving and analytical skills
- Ability to multi-task, prioritize and be detail-oriented

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## EXHIBIT B

**From:** Cooper, Jennifer  
**To:** Schultz, Timothy A  
**Subject:** Ethics Informal Advisory Opinion; Schultz (Voors); Post-employment  
**Date:** Friday, November 9, 2018 5:08:25 PM  
**Attachments:** Request for Informal Advisory Opinion-SBOE-Voors 11-2-18.pdf  
image001.png

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Tim,

Thank you for contacting our office for advice on behalf of Matt Voors, Executive Director (ED) for the Indiana State Board of Education (Board). I understand that Mr. Voors has an employment opportunity with Project Lead the Way (PLTW). You provide that PLTW recently created the position of Vice President of Legal Affairs and has offered Mr. Voors an opportunity to apply and interview for the position. You provide the Mr. Voors had an interview with PLTW on October 26, 2018.

As the ED of the Board, Mr. Voors' responsibilities include the following:

- Act as the liaison between the Board and the Indiana Department of Education (IDOE);
- Handle logistical, administrative and technical duties for the Board, including the Board website and Board meetings;
- Work with IDOE staff to create board agendas and meeting materials in advance of each Board meeting;
- Compile and monitor the accuracy of the documents and other materials needed for Board agenda items;
- Act as an advisor to the Board on special education and other underserved populations;
- Respond to requests for technical support from Board members during and between Board meetings;
- Serve as the appointing authority for purposes of Indiana Code 4-2-6 and 42 IAC (ethics and conflicts of interest);
- Conduct educator outreach and engagement;
- Execute and deliver any documents on behalf of the Board related to matters that require Board action, including hearings and adjudications;
- Consistent with the laws and regulations administered by the Indiana Department of Administration and the Office of Management and Budget ; and subject to review for form and legality by the Office of the Indiana Attorney General , has the authority to negotiate the terms of any contract or amendment to any contract, including the scope of work or description of deliverables, and execute any contract or amendment to any contract that does not exceed \$75,000 to be spent prior to the stated termination date of the contract or amendment in furtherance of projects or programs that have been approved by the Board. Any contract that exceeds \$75,000 to be spent prior to the stated termination date of the contract or amendment shall require the express approval of the Board. For the purposes of this grant of authority, the terms "contract" and "amendment" also include any Memorandum of Understanding, Memorandum of Agreement, other such agreement or amendment thereto;
- Direct work of General Counsel; and
- Perform any other duties as specifically requested by the Board.

Finally, the ED has the authority to delegate any function, authority or task to any person as he may deem necessary or desirable to effectively perform his duties or tasks for the Board.

You further provide that the ED participates in the negotiation and administration of all Board contracts. Further, although the ED does not make any final regulatory or licensing decisions on behalf of the Board, as the Board members are the final decision-makers for such matters, he may be involved in the discussions with Board members prior to final actions taken by the Board members. Additionally, to the extent that such matters arise during the course of the Board's regular administrative functions, the ED may be involved in the review, processing, decision making of any applications, business transactions, general claims, contracts, administrative determinations, enforcement proceedings, Board investigations, judicial proceedings, lawsuits, licensing issues, economic development projects, and/or public works projects.

PLTW is a non-profit organization headquartered in Indianapolis that provides science, technology, engineering, and math programs nationwide. PLTW creates programs that assist students to develop in-demand, transportable skills - such as problem solving, critical and creative thinking, collaboration, and communication - that they will use both in school and for the rest of their lives, on any career path they take. As PLTW students progress through grades K-12, they are empowered to explore career paths, engage in problem solving and process thinking, develop technical knowledge and skills, and build communication skills. As part of developing the programs referenced above, PLTW provides teachers with professional development and the continual support and resources they need to implement the program with fidelity to the engaging activity, project, and problem-based (APB) instructional design model. The APB approach scaffolds student learning through structured activities and projects that empower students to become independent in the classroom and helps them build skill sets to apply to an open-ended design problem. PLTW contracts with individual schools and school corporations to provide access to its learning programs, services, and resources. Currently, Dr. Bertram, President and Chief Executive Officer of PLTW, serves as a member of the Board.

As the Vice President of Legal Affairs for PLTW, Mr. Voors' primary duties and responsibilities will be to support the Chief Legal and Assessment Officer with managing the design and execution of PLTW legal instruments and strategy. This position will work collaboratively across the organization and especially closely with team members from Legal, Finance, Operations, Engagement, and Programs to support continued growth and development and mitigate risk. Specifically, the job description for the Vice President of Legal Affairs provides that he/she shall:

- Participate and assist in the definition and development of policies, procedures, and programs;
- Provide general business and practical advice concerning business operations;
- Draft memorandums regarding potential outcomes and/or effects of business transactions;
- Review and update agreements associated with business activities within company standards and policies;
- Write contractual agreements;
- Review, draft, and negotiate contract agreements;
- Conduct necessary legal research;

- Ensure that PLTW conducts its business in compliance with all applicable laws and regulations;
- Proactively review internal legal documents and recommend updates in accordance with PLTW strategy;
- Perform such other duties as are incidental to the position of Senior Vice President/Chief Legal and Assessments Officer and as are reasonably assigned by the Chief Executive Officer; and
- Other duties as assigned.

Mr. Voors will not serve as a lobbyist or perform any actions as a lobbyist on behalf of PLTW.

I understand you are seeking advice to determine whether, under the Code of Ethics (Code), Mr. Voors would be able to accept the position with PLTW immediately upon leaving state employment.

Your inquiry primarily invokes consideration of the post-employment rule and the rule on conflict of interests; decisions and voting. I included all relevant rules and definitions at the end of this opinion for your reference.

#### **1. Post-employment: Cooling off period**

The post-employment rule consists of two separate limitations: a “cooling off” period and a particular matter restriction.

The first prohibition, commonly referred to as the cooling off period, prevents Mr. Voors from accepting employment: 1) as a lobbyist, 2) from an employer with whom he engaged in the negotiation or administration of a contract (which includes a grant agreement) 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 he made a regulatory or licensing decision that directly applied to the employer or its parent or subsidiary, until the lapse of 365 days from the date he leaves state employment. In addition, he is prohibited altogether from accepting employment from an employer if the circumstances surrounding the hire suggest the employer’s purpose is to influence him in his official capacity as a state employee.

Regarding subsection 1), Mr. Voors would not be able to work as an executive branch lobbyist 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). Based on the information you have provided, Mr. Voors will not serve as a lobbyist or perform any actions as a lobbyist on behalf of PLTW; however, I suggest that Mr. Voors review IDOA’s Executive Branch Lobbying Manual to learn about the types of interactions with members of the executive branch (including state employees and special state appointees) that are considered executive branch lobbying. So long as the intended position with PLTW would not require executive branch lobbying, then this portion of the cooling off period would not apply.

As to subsection 2), you write that the Board has not had any active contracts or contract

negotiations with PLTW during the course of Mr. Voors' employment with the Board. Accordingly, the restriction in subsections 2) would not apply to his prospective position with PLTW.

Regarding subsection 3), you provide that the Board makes all final regulatory or licensing decisions, but the ED may participate in discussions leading up to these decisions. Regardless, to the best of your knowledge, Mr. Voors has not participated in any such decisions and the Board has not made any regulatory or licensing decisions that directly applied to the PLTW, its parent company, or any of its subsidiaries during Mr. Voors' tenure with the Board. As such, the restriction in subsection 3) would not apply to his prospective position with PLTW.

Furthermore, so long as the position with PLTW is not being offered to Mr. Voors to influence him in his official capacity as a state employee, this prospective opportunity would not be in violation of the last part of this rule.

**Based on the information provided, Mr. Voors' acceptance of an employment opportunity with PLTW would not trigger the one-year cooling off restriction, and he could work for PLTW immediately upon leaving state employment.**

## **2. Post-employment: Particular matter restriction**

In addition to the cooling off period, please note that Mr. Voors is also subject to the post-employment rule's "particular matter" restriction. This restriction prevents him from working on any of the following twelve matters if he personally and substantially participated in the matter as a state employee: 1) an application, 2) a business transaction, 3) a claim, 4) a contract (or grant), 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 "particular matter" 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. 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.

**In this instance, Mr. Voors would be prohibited from representing or assisting PLTW, as well as any other person, in a particular matter that he personally and substantially participated in as a state employee.** You have not identified any particular matters that Mr. Voors' may be asked to work on for PLTW; however, if you have any questions regarding his work after reviewing the twelve matters listed above, please feel free to follow up with our office.

## **3. Conflicts of Interests; Decisions and Voting**

Because Mr. Voors is still employed by the State, he should also keep in mind IC 4-2-6-9, which pertains to conflicts of interests; decisions and voting. This rule prohibits him, as a state employee, from participating in any decisions or votes, or any matter related to those decisions or votes, if he has knowledge that any of a certain subset of persons has a financial interest in the outcome of the matter, including himself and any person or organization with whom he is negotiating or has an arrangement concerning prospective employment. For purposes of this rule, "financial interest" is

defined in IC 4-2-6-1(a)(11). *Please note that this prohibition extends beyond merely the decision or vote on the matter to encompass any participation in that decision or vote.*

In this case, it is clear that employment negotiations have begun, as Mr. Voors was scheduled to have an interview with PLTW on October 26, 2018. As such, Mr. Voors is prohibited from participating in any matter related to a decision or vote in which PLTW has a financial interest.

IC 4-2-6-9(b) requires that an employee who identifies a potential conflict of interests notify their Ethics Officer and Appointing Authority and seek an advisory opinion from the State Ethics Commission. You provide that Mr. Voors has been screened from all PLTW matters, including a potential agenda item pertaining to PLTW for the Board's 2018 business meeting. Per the established screening mechanism, Mr. Voors will not engage in discussions with any Board member regarding that agenda item prior to the Board's business meeting. **While these are appropriate steps, in order to be in compliance with IC 4-2-6-9(b), Mr. Voors will need to notify his appointing authority, the Governor, through the Governor's Chief of Staff, Earl Goode, and either (1) file the Conflict of Interests-Decisions and Votes ethics disclosure form with the OIG; or (2) seek a Formal Advisory Opinion from the State Ethics Commission.** In addition, the screening mechanism must remain in effect for the remainder of Mr. Voors' state employment to ensure that he will not violate this rule and not just for the next upcoming Board meeting.

#### 4. Confidential Information

Finally, Mr. Voors should also be aware of IC 4-2-6-6, which prohibits him 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. So long as working for PLTW does not result from information of a confidential nature, any such post-employment would not violate IC 4-2-6-6.

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 I understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to my attention.

Sincerely,

Jen Cooper  
State Ethics Director  
Office of Inspector General

***Please take a few moments to provide feedback on your experience:***

***<https://www.surveymonkey.com/r/OIGInformals>. Thank you!***

#### IC 4-2-6-1

##### Definitions

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

(1) "Advisory body" means an authority, a board, a commission, a committee, a task force, or other body designated by any name of the executive department that is authorized only to make nonbinding recommendations.

...

(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.

#### **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 4-2-6-6**

##### **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.

#### **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 4-2-6-11**

##### **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.

INDIANA EXHIBIT C  
STATE ETHICS COMMISSION

NOV 15 2018

FILED



**ETHICS DISCLOSURE STATEMENT**  
**CONFLICTS OF INTEREST – DECISIONS AND VOTING**  
State Form 55880 (R / 10-15)  
OFFICE OF THE INSPECTOR GENERAL  
IC 4-2-6-9

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

Name (last) Voors	Name (first) Matt	Name (middle)	
Name of office or agency Indiana State Board of Education		Job title Executive Director	
Address of office (number and street) 143 West Market Street		City Indianapolis	ZIP code 46204
Office telephone number ( 317 ) 232-0963	Office e-mail address (required) MVoors@sboe.in.gov		

Describe the conflict of interest:

Mr. Voors is currently employed as the Executive Director for the Indiana State Board of Education ("Board"). At the November 14, 2018, Board meeting, the Board is set to discuss and vote on two issues relevant to this submission: 1) the "Governor's Workforce Cabinet Recommendations"; and 2) "Updates to Graduation Pathways Policy Document." Both topics have a tenuous connection to a potential job opportunity that Mr. Voors is pursuing. To ensure compliance with IC 4-2-6-9 (Conflict of economic interest; commission advisory opinions; disclosure statement; written determinations), as well as to avoid the appearance of any potential ethical issues, Mr. Voors has informed the Board's Board's ethics officer and his appointing authority of the potential conflict. Further, working with the agency's ethics officer, Mr. Voors has been screened from discussions with Board members and staff regarding the above referenced agenda items prior to the November 14, 2018, Board meeting.

Pursuant to the screen established by the ethics officer, Mr. Voors will not participate in the Board's discussion on November 14, 2018, in regards to the "Governor's Workforce Cabinet Recommendations" and the "Updates to Graduation Pathways Policy Document" and will leave the meeting when these agenda items are discussed and voted on by the Board members.

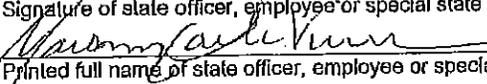
By taking the above referenced steps to remove himself from the discussions pertaining to the above referenced agenda items, Mr. Voors has ensured that he will avoid any potential conflicts of interest.

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

The ethics officer has worked with Board staff to ensure that staff, other than Mr. Voors, are working with Board members answer any questions that the Board members have regarding the above referenced agenda items. Moreover, the ethics officer and Mr. Voors will work together to ensure that Mr. Voors is not present during the Board's discussion and vote the above referenced agenda items.

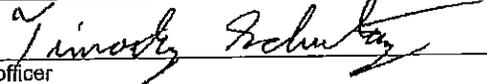
**AFFIRMATION**

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

Signature of state officer, employee or special state appointee 	Date signed (month, day, year) 11/15/18
Printed full name of state officer, employee or special state appointee Matthew Voors	

**FOR ETHICS OFFICER USE ONLY**

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

Signature of ethics officer 	Date signed (month, day, year) 11/15/18
Printed full name of ethics officer Timothy Schultz	

**Schultz, Timothy A**

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**From:** Voors, Matthew (Matt)  
**Sent:** Thursday, November 15, 2018 3:41 PM  
**To:** Goode, Earl  
**Cc:** Jankowski, Jane; Johnston, Cristopher R; Kwiatkowski, Lee A (GOV); Schultz, Timothy A; Carrasco, Cynthia (GOV)  
**Subject:** Notification of Recusal Per IC 4-2-6-9-Matthew Voors, Indiana State Board of Education

Good afternoon,

In compliance with IC 4-2-6-9, please allow this email to serve as my official notice of recusal from certain matters being considered by the Indiana State Board of Education. As a result of a potential employment opportunity that I am considering, I have recused myself from discussing two items from the Board's November 2018 business meeting—the "Governor's Workforce Cabinet Recommendations" and the "Updates to Graduation Pathways Policy Document." To avoid any potential conflicts of interest or the appearance of any conflict of interest, I recused myself from discussing the agenda items with the Board members prior to the business meeting and left the meeting when the agenda items were discussed and voted on by the Board.

If you have any questions or would like to discuss further, please feel free to contact me. Thank you.

Matthew Voors  
Executive Director, Indiana State Board of Education

INDIANA EXHIBIT D  
STATE ETHICS COMMISSION

DEC 13 2018



ETHICS DISCLOSURE STATEMENT  
CONFLICTS OF INTEREST - DECISIONS AND VOTING  
State Form 56060 (R / 10-16)  
OFFICE OF THE INSPECTOR GENERAL  
IC 4-2-6-9

FILED

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) Voors	Name (first) Matt	Name (middle)
Name of office or agency Indiana State Board of Education		Job title Executive Director
Address of office (number and street) 143 West Market Street		City Indianapolis
		ZIP code 46204
Office telephone number ( 317 ) 232-0983	Office e-mail address (required) MVoors@sboe.in.gov	

Describe the conflict of interest:

Mr. Voors is currently employed as the Executive Director for the Indiana State Board of Education ("Board"). At the December 12, 2018, Board meeting, the Board is set to discuss and vote on two issues relevant to this submission: 1) "2019-20 Course Title and Descriptions"; and 2) "CTE Concentrator Courses." Both topics have a tenuous connection to a potential job opportunity that Mr. Voors is pursuing. To ensure compliance with IC 4-2-6-9 (Conflict of economic interest; commission advisory opinions; disclosure statement; written determinations), as well as to avoid the appearance of any potential ethical issues, Mr. Voors has informed the Board's Board's ethics officer and his appointing authority of the potential conflict. Further, working with the agency's ethics officer, Mr. Voors has been screened from discussions with Board members and staff regarding the above referenced agenda items prior to the December 12, 2018, Board meeting.

Pursuant to the screen established by the ethics officer, Mr. Voors will not participate in the Board's discussion on December 12, 2018, in regards to the "2019-20 Course Title and Descriptions" and the "CTE Concentrator Courses" and will leave the meeting when these agenda items are discussed and voted on by the Board members.

By taking the above referenced steps to remove himself from the discussions pertaining to the above referenced agenda items, Mr. Voors has ensured that he will avoid any potential conflicts of interest.

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

The ethics officer has worked with Board staff to ensure that staff, other than Mr. Voors, are working with Board members answer any questions that the Board members have regarding the above referenced agenda items. Moreover, the ethics officer and Mr. Voors will work together to ensure that Mr. Voors is not present during the Board's discussion and vote the above referenced agenda items.

**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)

12/12/18

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

Matthew Voors

**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)

12/12/18

Printed full name of ethics officer

Timothy Schultz

**Schultz, Timothy A**

---

**From:** Voors, Matthew (Matt)  
**Sent:** Wednesday, December 12, 2018 2:31 PM  
**To:** Goode, Earl  
**Cc:** Jankowski, Jane; Johnston, Christopher R; Kwiatkowski, Lee A (GOV); Schultz, Timothy A; Carrasco, Cynthia (GOV)  
**Subject:** Notification of Recusal Per IC 4-2-6-9-Matthew Voors, Indiana State Board of Education

Good afternoon,

In compliance with IC 4-2-6-9, please allow this email to serve as my official notice of recusal from certain matters being considered by the Indiana State Board of Education. As a result of a potential employment opportunity that I am considering, I have recused myself from discussing two items from the Board's December 2018 business meeting—the "2019 Course and Title Descriptions" and "CTE Concentrator Courses."

To avoid any potential conflicts of interest or the appearance of any conflict of interest, I recused myself from discussing the agenda items with the Board members prior to the business meeting and left the meeting when the agenda items were discussed and voted on by the Board.

If you have any questions or would like to discuss further, please feel free to contact me. Thank you.

Matthew Voors  
Executive Director  
Indiana State Board of Education  
(O) 317.232.0963 | [www.in.gov/sboe](http://www.in.gov/sboe) | F: 317.234.8726  
143 W. Market, Suite 500, Indianapolis, IN 46204



**INDIANA STATE BOARD OF EDUCATION**

\*\*\*PRIVILEGED & CONFIDENTIAL\*\*\*

The information contained in this e-mail is information protected by attorney-client and/or attorney/work product privilege. The information is intended to be excepted from disclosure under the Indiana Access to Public Records Act pursuant to IC 5-14-3-4(b)(2). It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by e-mail. If the person actually receiving this e-mail or any other reader of the e-mail is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution, or copying of the communication is strictly prohibited.



EXHIBIT E

# INDIANA STATE BOARD OF EDUCATION

## STATE BOARD OF EDUCATION RESOLUTION REGARDING STAFFING

WHEREAS, the State Board of Education ("SBOE") approved a resolution on July 19, 2013 authorizing the SBOE to create a staffing plan;

WHEREAS, pursuant to that staffing plan, job descriptions were created;

WHEREAS, recently a new General Counsel to the SBOE was retained;

NOW, THEREFORE, BE IT RESOLVED THAT, the SBOE approves the staffing change and affirms the attached job descriptions.

ADOPTED ON: October 1, 2014



# INDIANA STATE BOARD OF EDUCATION

## STATE BOARD OF EDUCATION STAFF MEMBER JOB DESCRIPTIONS

### State Board of Education Executive Director ("Executive Director")

The Executive Director of the State Board of Education ("SBOE") shall have the following duties:

- Act as the liaison between the SBOE and the Indiana Department of Education ("IDOE");
- Handle logistical, administrative and technical duties for the SBOE, including the SBOE website and SBOE meetings;
- Work with IDOE staff to create board agendas and meeting materials in advance of each board meeting;
- Compile and monitor the accuracy of the documents and other materials needed for Board agenda items;
- Act as an advisor to the SBOE on special education and other underserved populations;
- Respond to requests for technical support from SBOE members during and between SBOE meetings;
- Serve as the appointing authority for purposes of Indiana Code 4-2-6 and 42 IAC (ethics and conflicts of interest);
- Conduct educator outreach and engagement;
- Execute and deliver any documents on behalf of the SBOE related to matters that require SBOE action, including hearings and adjudications;
- Consistent with the laws and regulations administered by the Indiana Department of Administration ("IDOA") and the Office of Management and Budget ("OMB"); and subject to review for form and legality by the Office of the Indiana Attorney General ("OIG"), has the authority to negotiate the terms of any contract or amendment to any contract, including the scope of work or description of deliverables, and execute any contract or amendment to any contract that does not exceed \$75,000 to be spent prior to the stated termination date of the contract or amendment in furtherance of projects or programs that have been approved by the SBOE. Any contract that exceeds \$75,000 to be spent prior to the stated termination date of the contract or amendment shall require the express approval of the SBOE. For the purposes of this grant of authority, the terms "contract" and "amendment" also include any Memorandum of Understanding, Memorandum of Agreement, other such agreement or amendment thereto;
- Direct work of General Counsel; and
- Perform any other duties as specifically requested by the SBOE.

The Executive Director has the authority to delegate any function, authority or task to any person as s/he may deem necessary or desirable to effectively perform his/her duties or tasks for the SBOE.



# INDIANA STATE BOARD OF EDUCATION

## **State Board of Education General Counsel ("General Counsel")**

The General Counsel of the SBOE shall have the following duties:

- Provide legal support and analysis to the SBOE as a separate legal entity;
- Provide legal support to SBOE members and the Executive Director during and between SBOE meetings;
- Initiate rulemaking and manage the rulemaking process on behalf of the SBOE, including engaging technical experts and stakeholders, managing the public hearing process and signing rule document submissions;
- Represent the SBOE in all interactions with the Office of Attorney General, and other state, federal and local agencies;
- Advise the SBOE and individual SBOE members regarding Open Door Law and Access to Public Records Act;
- Serve as the SBOE Public Records Coordinator for Access to Public Records Act requests;
- Represent the SBOE in all interactions with the Public Access Counselor;
- Manage legal staff as needed for SBOE matters, including hearings and adjudications;
- Consistent with the laws and regulations administered by the Indiana Department of Administration ("IDOA") and the Office of Management and Budget ("OMB"); and subject to review for form and legality by the Office of the Indiana Attorney General ("OIG"), has the authority to negotiate the terms of any contract or amendment to any contract, including the scope of work or description of deliverables, and execute any contract or amendment to any contract that does not exceed \$75,000 to be spent prior to the stated termination date of the contract or amendment in furtherance of projects or programs that have been approved by the SBOE. Any contract that exceeds \$75,000 to be spent prior to the stated termination date of the contract or amendment shall require the express approval of the SBOE. For the purposes of this grant of authority, the terms "contract" and "amendment" also include any Memorandum of Understanding, Memorandum of Agreement, other such agreement or amendment thereto; and
- Performs any other duties as specifically requested by the SBOE.

The General Counsel has the authority to delegate any function, authority or task to any person as s/he may deem necessary or desirable to effectively perform his/her duties or tasks for the SBOE.

## **State Board of Education Technical Advisor ("Technical Advisor")**

The Technical Advisor to the SBOE shall have the following duties:

- Manage communications and public relations on behalf of the SBOE;
- Answer requests for technical support from SBOE members during and between SBOE meetings;



# INDIANA STATE BOARD OF EDUCATION

- Provide technical advice to the SBOE and its members regarding common core standards, assessments, Indiana's School Accountability System (the A-F Model), strategic planning, staffing, and other issues upon request;
- Manage fiscal reviews of SBOE expenditures;
- Communicate with the IDOE as it relates to SBOE matters;
- Engage with stakeholders and community representatives on SBOE matters; and
- Perform any other duties as specifically requested by the SBOE.

The Technical Advisor has the authority to delegate any function, authority or task to any person as s/he may deem necessary or desirable to effectively perform his/her duties or tasks for the SBOE.

The SBOE is committed to ensuring that the SBOE works cooperatively and productively with the Superintendent of Public Instruction and IDOE, and for this reason, instructs SBOE staff to work closely with IDOE staff as necessary to ensure that the work of the SBOE and IDOE are coordinated for the benefit of Indiana students, teachers, administrators, schools and communities.

STATE OF INDIANA            )       INDIANA STATE ETHICS COMMISSION  
  )SS:  
COUNTY OF MARION        )       CASE: 2017-10-0234

IN RE THE MATTER OF ARVIN COPELAND,  
Respondent

FINAL REPORT OF THE INDIANA STATE ETHICS COMMISSION

Comes now the Ethics Commission for the State of Indiana (“Commission”), and hereby reports its findings of fact, conclusions of law, and sanctions in the above captioned matter.

FINDINGS OF FACT

1. The Respondent and the Inspector General entered into an Agreed Settlement (“Agreement”) which was accepted by the Commission during their December 13, 2018 meeting.
2. Pursuant to the Agreement, the Respondent, a former employee of the Indiana Department of Homeland Security, admitted that he violated IC 4-2-6-11(b)(2), the ethics rule pertaining to the cooling off provision of the post-employment rule.
3. Pursuant to the Agreement, the Respondent admitted to two (2) violations of IC 4-2-6-11(b)(2), the ethics rule pertaining to the cooling off provision of the post-employment rule, when he entered into contracts with Witt O’Brien’s, LLC.

CONCLUSIONS OF LAW

Said conduct, admitted and acknowledged by Respondent, constitutes a violation of IC 4-2-6-11.

SANCTIONS

The Commission sanctions the Respondent a fine in the amount of Seven Thousand Dollars (\$7000.00) to be paid to the “Indiana State Ethics Commission” within sixty (60) days of from the date the Commission accepted the agreement.

Approved on January 10, 2019.

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Corinne Finnerty, Commissioner

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Sue Anne Gilroy, Commissioner

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Priscilla Keith, Commissioner

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Katherine Noel, Commissioner