

INDIANA
STATE ETHICS COMMISSION

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

Minutes of the
Indiana State Ethics Commission
February 13, 2025
At 10:00 am

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

Commission Members Present:

Katherine Noel, Chairperson
Robert Duncan
Corinne Finnerty
Rafael Sanchez

OIG Members Present:

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

I. Call to Order and Establishment of Quorum

10:00 am

Katherine Noel calls the meeting to order.

II. Adoption of Agenda

Commissioner Sanchez made a motion to adopt the agenda. Commissioner Finnerty seconded.

Approved: 4-0

III. Approval of Minutes from January 9, 2025

Approval of minutes of January 9, 2025. Commissioner Duncan made a motion to approve the minutes. Commissioner Sanchez seconded.

Approved: 4-0

IV. Consideration of Post-Employment Waivers

- a. Consideration of Post-Employment Waiver for:
Indiana Department of Corrections – Sarah Schelle
Presented by Chief Legal Officer/Ethics Officer Anna Quick

Anna Quick and Sarah Scholle were present and sworn in.

Lloyd Arnold, the appointing authority for DOC could not be here today and designated Chief Legal Officer/Ethics Officer Anna Quick to present the waiver which waives the cooling off provision related to contacts and the particular matter restriction.

Commissioner Sanchez made a motion to approve the waiver; seconded by Commissioner Finnerty.

Approved: 4-0

- b. Consideration of Post-Employment Waiver for:
Office of Governor – Indiana Criminal Justice Institute Executive Director Devon McDonald
Presented by Governor's Office Chief of Staff Joshua Kelley and ICJI Deputy General Counsel/Ethics Office Jon McDonald

Governor's Office Chief of Staff Joshua Kelley, the appointing authority for the Governor's Office, presented the waiver which waives the cooling off provision related to contracts.

Commissioner Duncan made a motion to approve the waiver; seconded by Commissioner Sanchez.

Approved: 4-0

V. Consideration of Formal Advisory Opinions

- a. Indiana Family and Social Services Administration – Courtney Penn
Presented by: FSSA Deputy General Counsel/Ethics Officer Mathew Gerber

This request was withdrawn by the requestor.

- b. Indiana Family and Social Services Administration – Jennifer Royer
Presented by: FSSA Deputy General Counsel/Ethics Officer Mathew Gerber

Jennifer Royer would like to accept a post-employment position with Indiana Aspire Health. She is requesting the commission's opinion on whether she can accept employment from Aspire Indiana Health.

Commissioner Sanchez made a motion to support Royer's acceptance of Employment by Aspire; seconded by Commissioner Noel.

Approved: 4-0

VI. Administrative Hearing

- a. In Re the Matter of Rebecca Honn: 2024-01-0030

The State noted the petitioner for the case has changed from Inspector General David Cook to Inspector General Jared Prentice. The parties agreed to extend discovery until April 18th move the hearing date to May on a day yet to be determined.

Commissioner Finnerty made a motion to support this order; Commissioner Duncan seconded.

Approved: 4-0

VII. State Ethics Commission Director's Report

- a. 35 IAOs this month. Most concern post-employment and moonlighting, with some regarding gifts and conflicts of interest. Outliers are concerned with additional compensation and financial disclosure statement filing requirements.
- b. Our civil penalties rule's public comment period ends February 21st, and the public hearing will be on 24th at 8:30 a.m.
- c. The new cabinet secretary structure is in place and the Commission should be aware they may receive requests for formal opinions regarding this subject.
- d. Indiana Code 4-2-6-2 requires the OIG provide rooms and staff assistance – including advising – for the commission. State Ethics Commission Director Reagan Perrodin's monthly reports will now include information about assistance the OIG provided each month. As of this month, staff assistance included Reagan acting in her role as State Ethics Commission Director. This includes but is not limited to receiving, reviewing, and documenting filings, providing logistics support, drafting Formal Advisory Opinions, and advising the Commission as needed. When advising the Commission on

matters related to specific cases pending before the commission, Reagan is acting independently of the Inspector General.

- e. The new Inspector General, Jared Prentice, is introduced.

VIII. Adjournment

Commissioner Sanchez made a motion to adjourn; Commissioner Finnerty seconded.

Approved: 4-0

The meeting adjourned at approximately 11:02 a.m.

TITLE 40 STATE ETHICS COMMISSION

Notice of First Public Comment Period

LSA Document #25-4

CIVIL PENALTIES FOR STATUTORY AND RULE VIOLATIONS

PURPOSE OF NOTICE

The State Ethics Commission (commission) is soliciting public comment on adding and amending rules at 40 IAC 2-3 regarding civil penalties. The commission seeks comment on the affected citations listed and any other provisions of Title 40 that may be affected by this rulemaking.

ADDITIONAL DOCUMENTS

Regulatory Analysis: 20250122-IR-040250004RAA

Notice of Public Hearing: 20250122-IR-040250004PHA

CITATIONS AFFECTED: 40 IAC 2-3-3; 40 IAC 2-3-9

AUTHORITY: IC 4-2-6-4

OVERVIEW

Basic Purpose and Background

The purpose of the proposed rule is to conform to the requirements under House Enrolled Act 1623-2023. This rule will amend 40 IAC 2-3-3 to include factors the commission shall consider in approving a fine in an agreed settlement. The rule also adds 40 IAC 4-3-9 to include factors the commission shall consider in issuing a fine after a public hearing. The commission is promulgating this rule to create rule authority consistent with what the commission has historically charged and may charge in the future. The proposed rule is needed to provide transparency to individuals who fall under the jurisdiction of the commission.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Regan Perrodin
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
(317) 234-4108
reperrodin@ig.in.gov

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENT

The commission is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #25-4 Civil Penalties for Statutory and Rule Violations
Regan Perrodin
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202

- (2) By email to reperrodin@ig.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.
- (3) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than February 21, 2025.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the State Ethics Commission, 315 West Washington Street, Room 104, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the State Ethics Commission office.

If the commission does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

PROPOSED RULE

SECTION 1. 40 IAC 2-3-3 IS AMENDED TO READ AS FOLLOWS:

40 IAC 2-3-3 Agreed settlements

Authority: IC 4-2-6-4

Affected: IC 4-2-6-4

Sec. 3. (a) The commission may consider an agreed settlement entered into by the inspector general and the respondent to an ethics complaint in a public meeting. The commission may accept or reject an agreed settlement by majority vote.

(b) No statement made by any person during settlement negotiations shall be used as evidence in ~~any~~ a subsequent public hearing or proceeding.

(c) The commission shall consider the factors contained in section 9(b) of this rule when considering an agreed settlement under subsection (a).

~~(d)~~ **(d)** The commission shall document its approval or rejection of the agreed settlement in a written report, signed by a majority of the commission members.

~~(e)~~ **(e)** The report shall be open to public inspection as a public record and ~~be~~ presented to those individuals listed in IC 4-2-6-4(b)(2)(J). The commission may present the report to those individuals listed in IC 4-2-6-4(b)(2)(K). (*State Ethics Commission; 40 IAC 2-3-3; filed Oct 22, 1991, 11:10 a.m.: 15 IR 207; readopted filed Aug 2, 2001, 3:15 p.m.: 24 IR 4227; readopted filed Nov 29, 2007, 11:14 a.m.: 20071226-IR-040070658RFA; readopted filed Sep 30, 2013, 1:33 p.m.: 20131030-IR-040130243RFA; filed Aug 28, 2019, 9:51 a.m.: 20190925-IR-040190265FRA*)

SECTION 2. 40 IAC 2-3-9 IS ADDED TO READ AS FOLLOWS:

40 IAC 2-3-9 Penalties

Authority: IC 4-2-6-4

Affected: IC 4-2-6-8; IC 4-2-6-12

Sec. 9. (a) The commission may issue a civil penalty between the minimum amount of zero dollars (\$0) and the maximum amount set forth in IC 4-2-6-8 and IC 4-2-6-12.

(b) In determining whether to assess a civil penalty, or the amount of a civil penalty, the commission shall consider:

- (1) the seriousness of the violation;
- (2) any deterrent effect the civil penalty may have;
- (3) any impact assessing a civil penalty may have on public confidence and trust in state government; and
- (4) the aggravating or mitigating circumstances set out in subsections (c) and (d).

(c) The commission shall consider the following aggravating factors when assessing a civil penalty and may adjust the amount of the civil penalty upward:

- (1) A failure to reasonably cooperate with the inspector general's investigation of the violation.**
- (2) Willful or intentional misconduct by the respondent.**
- (3) The duration and frequency of the violation.**
- (4) A history of similar or other violations committed by the respondent.**
- (5) A failure to follow an informal advisory opinion obtained from the inspector general or the advice of the agency's ethics officer.**
- (6) Material or financial harm, or both, to the state because of the violation.**
- (7) Financial gain or benefit to the respondent because of the violation.**
- (8) Whether the violation negatively impacts the integrity or public trust of the state or a state agency.**

(d) The commission shall consider the following mitigating factors when assessing a civil penalty and may adjust the amount of the civil penalty downward:

- (1) The respondent's admittance of the violation.**
- (2) Cooperation with the inspector general's investigation of the violation.**
- (3) The respondent's history of compliance.**
- (4) The respondent's good faith efforts to receive and follow advice of the office of inspector general, counsel, or the agency's ethics officer.**
- (5) Remedial or corrective action taken by the respondent.**
- (6) Remedial or corrective action taken by the agency against the respondent.**
- (7) A relative lack of seriousness of the violation compared to other violations.**
- (8) A lack of material harm to the state because of the violation.**
- (9) Material hardship to the respondent or their family from the penalty.**

(e) A civil penalty shall be considered during a public meeting and must be adopted by majority vote. (*State Ethics Commission; 40 IAC 2-3-9*)