

Welcome to Ethics Training presented by State of Indiana Office of Inspector General

Marilyn: Hello, Lily. Welcome to State Government!

Lily: Thank you, Marilyn. I'm very excited to be here!

Marilyn: One of the first things you'll need to do is complete the ethics training.

Lily: Ethics training? That sounds kind of scary.

Marilyn: Just follow along with this presentation and you'll be all set!

Lily: Okay! Let's do this!

Meet Lily

Let's follow her on her journey as she learns about the O-I-G, learns how to apply the ethics rules, and completes a quiz to test her knowledge. Then we'll wrap up and talk about additional resources the O-I-G provides to its stakeholders.

Introduction

Who is the Office of Inspector General?

Law Enforcement:

The O-I-G's law enforcement officers have full police powers and conduct investigations into allegations of ethics violations and criminal conduct by state workers.

Legal:

The O-I-G's attorneys draft advisory opinions, assist in investigations, bring cases involving alleged misconduct to the State Ethics Commission (ethics violation) or the local prosecutor's office for criminal prosecution, conduct research, and present at conferences.

Administrative Support:

The O-I-G's administrative staff members assist in the operation of the agency and provide administrative support to the attorneys and special agents as well as customer service to the public.

Mission

The mission of the Inspector General and staff is to reduce fraud, waste, abuse, mismanagement and wrongdoing in state executive branch agencies. Through education, advice, investigations, prosecutions and legislative recommendations, the Inspector General fosters a culture of integrity that contributes to public confidence in state government.

Why is the O-I-G needed?

Hoosiers deserve to know that government decisions are being made in the public interest, not because of gifts, political contributions, or undue influence. It is imperative that clear ethics guidelines be developed and rigorously enforced to ensure that all state employees meet the highest standard of conduct. – Former Governor Mitch Daniels, Executive Order 05-03 (establishing the O-I-G)

Who is the State Ethics Commission?

The Ethics Commission consists of five Commissioners. They are appointed by the Governor and serve for four-year staggered terms. Commissioners may not be elected officials, state employees, or lobbyists. No more than three may be from the same political party. The Commission holds monthly public meetings during which it issues Advisory Opinions and receives complaints filed by the Inspector General.

Why do I need to take ethics training?

Let's take a look at the reasons why it is important that state workers complete this training.

Requirements:

Under 42 I-A-C 1-4-1, all state employees, state officers, and special state appointees are required to complete the ethics training within six weeks of hire or appointment and again once every two years. Failure to complete the training will result in an ethics violation.

Knowledge is power:

You do not have to memorize every word in the Code of Ethics, but being familiar with the rules will ensure you stay out of trouble. At the very least, you will know when you should ask for advice.

Violations can be costly:

If the State Ethics Commission finds that you violated the Code of Ethics, they can impose a variety of sanctions, including:

- fines (up to three times the amount gained by the violation);
- termination;
- ban you from future state employment.

See I-C 4-2-6-12 for full list.

Fraud detection:

The O-I-G is staffed by only twelve people and its jurisdiction includes over thirty thousand state workers. Completing the ethics training will allow you to recognize when someone else may be violating the Code of Ethics or engaging in misconduct in general. You can help the O-I-G detect fraud or ethics violations by filing a hotline complaint on our website.

Resources:

The O-I-G offers many resources (advice, education, training, Et Cetera) to help state workers stay ethical. You can request an informal advisory opinion and receive a confidential answer to any ethics question within one to three business days.

Ethics Rules – Overview

GIFTS:

The rules related to gifts and other forms of payment to state workers (besides their salary) are intended to prevent influence on state workers and their actions.

- Gifts – 42 IAC 1-5-1
- Donor Restrictions – 42 IAC 1-5-2
- Additional Compensation – 42 IAC 1-5-8
- Bribery – 42 IAC 1-5-9

CONFLICT OF INTERESTS:

The conflict of interests rules are in place to deter state workers from putting their personal interests/gains before those of the State.

- Conflict of interests; decisions and votes – IC 4-2-6-9
- Conflict of interests; contracts – IC 4-2-6-10.5
- Outside employment – IC 4-2-6-5.5

POST EMPLOYMENT – IC 4-2-6-11:

The post-employment restrictions are intended to slow the “revolving door” of workers leaving state employment for private sector jobs in which they are:

- working on the opposite side of matters they worked on for the State; and/or
- working for employers whom were affected by decisions made as a state employee.

POLITICAL ACTIVITY – 42 IAC 1-5-4:

While state employees are not prohibited from participating in the political process, there are certain prohibitions related to campaign fundraising and when they can engage in political activity.

GHOST EMPLOYMENT – 42 IAC 1-5-13:

This rule prohibits state employees from engaging in any work besides their official state duties during their working hours.

USE OF STATE PROPERTY – IC 4-2-6-17:

State workers are prohibited from the personal (non-official) use of state property unless permitted by their agency's de minimis use policy.

NEPOTISM – IC 4-2-6-16:

State workers cannot hire or be in the direct line of supervision of any of their relatives.

CONFIDENTIAL INFORMATION:

State employees are prohibited from disclosing and/or using confidential information for their or anyone else's person gain.

- Benefitting from confidential information – 42 IAC 1-5-10
- Divulging confidential information – 42 IAC 1-5-1
- Compensation resulting from confidential information – IC 4-2-6-6

Gifts

The Rule:

Do not accept gifts from any person who has a business relationship with your agency.

Lily: Sounds simple enough, but I have some questions!

Lily: What exactly is a "gift"?

The term "gift" includes the following:

- Gift;
- Favor;
- Service;

- Entertainment;
- Food;
- Drink;
- Travel Expenses;
- Registration Fees

Lily: What is a “business relationship”?

“Business relationship” includes the following:

- Dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing a pecuniary interest in a contract or purchase with the agency; or a license or permit requiring the exercise of judgment or discretion by the agency.
- The relationship a lobbyist (registered or unregistered) has with an agency.

Lily: Are there any exceptions to the gift rule?

Exceptions to the prohibition on the acceptance of gifts can be found in 42 IAC 1-5-1.

Exceptions include:

- Gifts from public institutions;
- Food/drink at certain public meetings;
- Mementos or souvenirs of nominal value;
- Gifts from family members or friends (as long as not written off as business expense);
- Nominal refreshments;
- Discounts/promotions offered by S-P-D or I-D-O-A to all state employees.

Lily: What if I am offered something of value, such as a gift card, because I gave a speech or presentation or for doing other job duties? Are there other rules that apply?

Honoraria:

Honorarium means a payment of money for an appearance, speech, or article. You cannot personally accept an *honorarium* for any activity that may be considered part of your official state duties. You can, however, accept an *honorarium* on behalf of the State, so long as it is not from a person who has a business relationship with your agency and payment is turned over to the Treasurer of State.

Additional Compensation:

“Compensation” means any money, thing of value, or financial benefit conferred on or received by, any person in return for service rendered, or for services to be rendered. You are prohibited from accepting additional compensation (beyond your salary_ for the performance of your official state duties.

Political Activity

Lily: I’ve heard I’m not allowed to engage in certain political activity as a state employee. What exactly does that mean?

- You may not engage in political activity when on the job or when acting in your official capacity.
- You must not use your official state title if engaging in political activity on your own time.
- You may never (even off the job) seek political contributions from:
 - People who have a business relationship with your agency; or
 - Employees you supervise.
- In addition, you may never seek political contributions on behalf of others if you are:

- An appointing authority; or
- If you have purchasing or procurement authority.

The rules differs for candidates. Visit our website for more info.

Conflicts of Interest

Lily: I keep hearing the term “conflict of interests...what exactly does this mean for a state worker?

A conflict of interests is a situation in which an individual has competing interests or loyalties. Sometimes a state worker can find themselves in a position to derive personal benefit from actions or decisions made in their official capacity. As a state worker, you need to ensure that you prevent yourself from having any conflicts of interests under the ethics rules. Let’s take a closer look at these rules.

There are three types of Conflicts of Interests to be aware of under the Code of Ethics.

- Outside employment
- Conflict of Interests; Decisions and Votes
- Conflict of Interests: Contracts

Outside Employment – IC 4-2-5-5.5:

- Outside Employment, also call moonlighting, means having additional employment outside of your state job.
- You could have a conflict of interests under this rule if your outside employment:
 - 1) conflicts with your state job responsibilities;
 - 2) requires you to reveal confidential sate information; or,
 - 3) involves using your position for personal gain.

- If you have second job or side business, you need to make sure it does not conflict with any of your state responsibilities. In addition, some agencies have policies requiring authorization or clearance from your supervisor. You should talk to your Ethics Officer and/or seek an informal advisory opinion from the O-I-G before starting a second position or outside business (even with a non-profit) to ensure you will not have a conflict of interests under the Code of Ethics.

Conflict of Interests: Decisions and Votes – IC 4-2-6-9:

- This rule prohibits you from participating in a decision or vote, and all matters relating to the decision or vote, in which you or certain other people might have a financial interest.
- This prohibition also applies if a business you serve or a potential employer has a financial interest in the matter.
- Employment negotiations or a financial interest related to decisions/votes?
 - If your state position requires you to make decisions in matters in which you (or an immediate family member, or a potential employer; or a business organization in which you are a member or hold a leadership position) have a financial interest in the outcome, you have a potential conflict of interests. Once a potential conflict of interests is identified, you must:
 - 1) Notify your Ethics Officer and Agency Head (recusing yourself is not sufficient);

- 2) Complete a Conflict of Interests: Decisions and Votes ethics disclosure form or see a Formal Advisory Opinion from the State Ethics Commission; and,
- Refrain from any participation in the matter (even discussions before the actual decision/vote).

Conflict of Interests: Contracts – IC 4-2-5-5.10.5

- This rule prohibits you from having a financial interest in a contract with *any* agency. The rule does not apply if you do not have contracting duties for the contracting agency and you meet certain disclosure requirements.
- If you have an outside position/business, you must ensure you do not have a financial interest in any state contracts. The State Ethics Commission has determined that a salary derived from a state contract is such a financial interest. The only permissible way to have such an interest is if you do not have contracting authority for the contracting agency and you file a disclosure form with the O-I-G BEFORE the contract is executed. Also, having a financial interest in a contract with the agency for which you work could be a criminal violation. You should seek advice if you think you may have a financial interest in a state contract.

Post-Employment

Lily: What if I want to leave state employment someday? Are there restrictions that would apply?

Post-employment restrictions cover several different areas. Let's take a closer look at each!

Cooling Off – Lobbying:

You are prohibited from lobbying the executive branch of state government for one year (365 days) from the date you leave state employment. If you are not sure if the responsibilities of your new position will require you to engage in activities that may be considered to be lobbying, you should refer to I-D-O-A's Executive Branch Lobbying Manual.

Cooling Off – Contracts:

You must wait one year before accepting employment or receiving compensation from an employer if you were:

- Engaged in the negotiation or administration of one or more contracts with that employers; and,
- In a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration of that contract.

Cooling Off – Regulatory/Licensing:

You must also wait one year before accepting employment or receiving compensation from an employer if you made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer.

Particular Matters:

There is a lifetime ban on working on the same *matter* for an employer in which you were “personally and substantially” involved as a state employee. A *matter* includes a contract, license, application, investigation, business, transaction, claim, determination, enforcement proceeding, judicial proceeding, lawsuit, or economic development project.

Waivers:

The post-employment restrictions can be waived by your agency's appointing authority (agency head) if he or she determines that waiving the restrictions would be in the public

interest. All post-employment waivers must be presented to and approved by the State Ethics Commission.

Lily: I feel like I've already learned a lot! Are there other rules I need to know about?

Confidential Information

State workers must not use or disclose confidential information to which they have access by virtue of their state position. Specifically, you are prohibited from:

- Benefiting from or allowing any other person to benefit from confidential information;
- Divulging confidential information; and,
- Accepting compensation from any employment, transaction, or investment which was entered into or made as a result of confidential information.

Use of State Property/Ghost Employment

STATE PROPERTY:

Do NOT use state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is permitted by a policy that has been approved by the State Ethics Commission. All agencies have a de minimis use policy that was approved by the State Ethics Commission. Check with your Ethics Officer or the O-I-G if you are not sure if a use of state property falls under this policy.

WORKING HOURS:

Do NOT engage in, or direct others to engage in, work other than the performance of official duties during working hours.

Communications by State Officers

A state officer may not use the state officer's name or likeness in a communication paid for entirely or in part with appropriations made by the general assembly, regardless of the source of the money. "Communication" refers to the following:

- An audio communication
- A video communication
- A print communication in a newspaper

A 2019 amendment to IC 4-2-6-15 creates new exceptions to the prohibition on a state officer using her or her name or likeness in a communication paid for with state funds.

Nepotism

Do NOT do any of the following:

- Hire a relative
 - A "relative" includes the following:
 - Parent (father/stepfather/mother/stepmother)
 - Siblings (brother/stepbrother/sister/stepsister)
 - Uncle/Aunt
 - Niece/Nephew
 - Spouse
 - Children (daughter/son/stepchild/grandchild/stepgrandchild)
 - In-laws (daughter-in-law/son-in-law)
- Contract with a relative
- Place or allow a relative to be placed in your direct line of supervision

- Includes not only direct supervisor, but anyone in the chain of supervision all the way up to the agency head/appointing authority

Those are the rules! Now let's see if we can apply them to some scenarios in the quiz section of the training. Good luck!

QUIZ

Help Lily through the next set of questions to test your knowledge of the ethics rules!

QUESTION 1:

Lily is the project manager on a large contract with her agency that was in place when she was hired. She worked well with the contractor's staff and made some decisions long the way that resulted in the project being completed ahead of schedule. The contractor was so impressed with Lily that they have offered her a position as a project manager (at her double current salary) with their company.

TRUE OR FALSE: Lily would not have to wait 365 days from leaving state employment before she could accept the position because she was not involved in the negotiation of this contract.

CORRECT ANSWER = FALSE

It appears that Lily was involved in the administration of this employer's contract and made decisions affecting the nature of the administration. Accordingly, she needs to wait 365 days from the date she leaves state employment to accept this position.

QUESTION 2:

Lily's manager has put her in charge of selecting a public relations consultant to assist the agency in communicating important information to the public. Lily's spouse owns a public relations firm. Lily finds out that this firm has responded to her agency's request for proposals. What should Lily do? (Select all three (3) of the correct choices that apply from the following five (5) options)

- A. Notify her agency's Ethics Officer and Appointing Authority of the potential conflict of interests.
- B. Pretend she does not know that her spouse owns the public relations firm that submitted the response.
- C. Simply recuse herself from the specific discussions and decisions regarding her spouse's firm's response, but not tell anyone why.
- D. File a written disclosure form with the OIG.
- E. Work with her Ethics Officer to ensure she is screened from any decisions, and related discussions, involving her spouse's firm.

CORRECT ANSWERS: A, D and E

Lily's immediate family member (spouse) has a financial interest in decisions she could make in this situation; therefore she has a potential conflict of interests and needs to take the actions you selected.

QUESTION 3:

Lily has been offered a multitude of items since she started her position with the State. Which of the following items are permissible for her to accept under the rules? (Select all three (3) of the correct choices that apply from the following five (5) options)

- A. A holiday gift from a friend who happens to work for a vendor (and who is not writing the gift off as a business expense).
- B. A keychain from a vendor.
- C. Dinner at St. Elmo's from a contractor to celebrate the end of a major project.
- D. Colts tickets from the manager of a facility she is inspecting.
- E. Lunch at a public meeting at which she is learning how to use new software her agency will soon be using.

CORRECT ANSWERS: A, B and E

All of these items are permissible to accept under the Code of Ethics (gifts rule) due to falling within the exceptions to the rule.

QUESTION 4:

Lily's brother, Jim, is interested in working for Lily's state agency and has applied for a current opening. If he gets the job, Jim would not report directly to Lily. Lily, however, is the director of the department in which Jim would work, and Jim's supervisor reports to Lily.

TRUE OR FALSE: Since he would not directly report to Lily, this arrangement would be permissible under the nepotism rule.

CORRECT ANSWER = FALSE

Jim would still be in Lily's direct line of supervision.

WELL DONE! Now that you have applied your knowledge of the Code of Ethics through the quiz, let's go ahead and wrap up the training!

WRAP-UP

Let's take a moment to quickly review the basics of all of the ethics rules we covered.

- Do not accept gifts from people who may want to influence you.
- Do not engage in political activity during work, using state property, or using your official title.
- Do not accept outside employment that conflicts with your state duties, uses state property, time or information.
- Do not make decisions at work that might financially benefit you, outside organizations you are associated with, or family members.
- Do not benefit from or divulge confidential information.
- Do not use state property for personal reasons beyond the minimum use allowed in your agency's policy.
- Do not go to work for a company that you worked on contracts with, licensed, or regulated as a state employee.
- Do not hire or supervise relatives.
- Complete ethics training every two years.

Follow the rules and you'll be fine. Ignore the rules and you could end up in trouble!

ADVICE/REPORTING MISCONDUCT

- So, what should you do if you are not sure if a rule applies to you and your specific circumstances?
 - You can ask the O-I-G for help by requesting an informal advisory opinion!
- What if I see another worker doing something that appears to be breaking the rules?

- You can report the alleged ethics violation to the OIG anonymously.

How to request advice:

Simply go to the O-I-G's website and submit a request for an informal advisory opinion.

How to report misconduct:

Simply go to the O-I-G's website and submit a hotline complaint.

OIG Resources

The O-I-G has many other resources as well. These can be access through the O-I-G's website: <http://www.in.gov/ig>

The resources found on the O-I-G's website can be used for additional guidance, to report misconduct, or to keep up to date on recent cases and opinions.

Advice:

You can request a confidential informal advisory opinion from the O-I-G if you would like an opinion on how an ethics rule may apply to your individual circumstances. You can expect to receive your informal opinion within one to three days.

Opinions:

The State Ethics Commission issues Formal Advisory Opinions. Unlike the confidential informal advisory opinions the O-I-G issues, the Formal Advisory Opinions are public and are published on the O-I-G's website.

Hotline:

You can use the O-I-G's hotline complaint form to report alleged criminal, ethics, or efficiency violations by state workers. The more detail you provide, the more helpful your report will be. Please note that the O-I-G's jurisdiction is limited to the executive branch of Indiana government.

Disclosures

Certain state workers are required to file disclosures with the O-I-G. These disclosures include the annual Financial Disclosure Statement, Conflict of Interests Disclosure Statements, Gift Waivers, and Post-employment waivers. All waivers and disclosures are public and can be found on the O-I-G's website (except Financial Disclosure Statements due to large volume received).

Reports:

The O-I-G publishes an Annual Report and Inspector General reports on investigations on our website. These are intended to increase transparency and share information about our office's activities.

Additional Materials

The O-I-G has a section on its website containing additional materials on the ethics rules, including one-page brochures on some of the ethics rules. These can be found on the Ethics Officer Resources page.

CONGRATULATIONS! YOU HAVE COMPLETED THE TRAINING!