



STATE OF INDIANA
OFFICE OF THE TREASURER
INDIANAPOLIS
40204

INDIANA
STATE ETHICS COMMISSION

AUG 08 2019

FILED

KELLY M. MITCHELL
TREASURER OF STATE

IC 4-2-6-11
Post-employment waiver

As the Appointing Authority of the Office of the Indiana Treasurer of State, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Troy Montigney in his post-employment with Ascensus, LLC.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.

IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting 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 worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

As Executive Director of the Indiana Education Savings Authority (IESA), the employee had substantial decision-making authority of policies, rules, and contracts, but did not have ultimate approval or signatory authority on any of them. That power is vested with the IESA Board of Directors (Board). The employee was hired by the Board, as the manager (IC 21-9-4-4), and fulfilled his delegated duties and obligations at the direct request of the Board and its chair, the Treasurer of State. The manager's statutory duties relate to the keeping of official Board records (see IC 21-9-4-10). The power to contract is vested with the Authority (IC 21-9-3-5), and the power to retain professional services is specifically granted to the Board (IC 21-9-4-7(3)). The Board's adopted bylaws vest the power to approve, bind IESA, and sign all contracts with the Board and the Board chair/vice chair (IESA Bylaws Article VI, Section 6.1, 6.2).

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

The employee will be a Vice President of Relationship Management for Ascensus. He will be responsible for management and support of state clients (not Indiana) who run Section 529 plans similar to, but completely separate and distinct from, Indiana's CollegeChoice 529 program. The employee will not perform any job functions for Ascensus directly relating to Indiana's CollegeChoice 529 program nor his previous state position as Executive Director of the IESA.

3. Please explain 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:

The employee will not perform any job functions for Ascensus directly relating to the IESA's contract with Ascensus or his previous state position. There will be no substantial contact and no pecuniary, business contact between the IESA and the employee's position with Ascensus. Indiana is and will continue to be assigned a different individual as its relationship manager at Ascensus.

4. Please explain 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:

The employee is an expert in this field. In his new role, he will offer management and support to other plans and help them thrive. This will lead to progress in other parts of the 529 ecosystem which will ultimately help Indiana better its program through the collective mission all Section 529 plans strive to meet. The public interest is served by ensuring a talented individual stays engaged in providing direction and progress to the broader college savings community, a community that is by federal mandate, publicly run by state governments. There is no rational benefit to Indiana, any other state, nor the public in forcing this employee to seek employment outside the market he has helped shape.

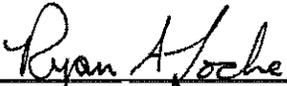
5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

The national 529 ecosystem is extremely small and very technical. Denying the employee's request to work for Ascensus, one of only a handful of plan administrators in the industry, would nearly shut off any opportunity for his personal growth in the market in which he has built his career. This would have a substantial negative impact on this employee's future employment opportunities, as well as place a significant economic hardship on him and his family.

C. Signatures

1. Appointing authority/state officer of agency

By signing below, I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.



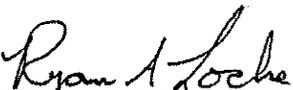
Ryan A. Locke (Appointing Authority)

7/8/19

DATE

2. Ethics Officer of agency

By signing below, I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).



Ryan A. Locke (Ethics Officer)

7/8/19

DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY	
Approved by State Ethics Commission	
 _____ Katherine Noel, Chair, State Ethics Commission	<u>8/8/2019</u> _____ Date

Mail to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.