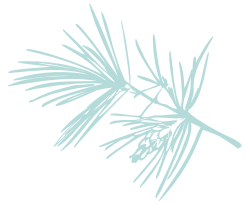


A close-up photograph of grass blades covered in a thin layer of white frost. The background is a soft, out-of-focus bokeh of light blue and white, suggesting a bright, sunny day. The overall mood is serene and crisp.

# Playing it Safe-Ethics Rules and Conflicts of Interest-Indiana State Government

Jennifer Thuma    November 16, 2021

# Agenda & Themes



- **State Ethics Laws**
- **Ethics & Democracies-  
International Context**
- **Keep in Mind-Federal  
and State Criminal  
Law & Professional  
Ethics Codes (i.e. for  
Lawyers, Engineers,  
Medical Professionals)**
- **Cultivate and  
Maintain Work  
Cultures with High  
Standards of Ethics**



Internationally, big picture-  
global corruption costs 5% of  
world GDP (World Economic  
Forum data, International  
Monetary Fund research)

**Democracies and free  
societies depend upon ethics  
laws & rules (contracts,  
procurement, regulatory  
decisions, transparency)**

# Safety, Lives and Trust Can Depend upon Good Ethics Rules in Business and Government

## Boeing Max 737

- **346 passengers died in two plane crashes**
- **Fraud, conspiracy, & knowledge of safety issues—employees covered up: \$2.5 billion settlement with DOJ (2021)**
- **Lack of company ethics in its culture—CEO stated**
- **Conflicts of interest**
- **<https://www.bbc.com/news/business-54174223>**

## Ohio state government

- **Most extensive bribery scheme in state's history--\$60 million –federal bribery charges**
- **AP “A Year Out, \$60 Million Bribery Scandal Felt in Business and Politics”**
- **Involved executive branch agency official, legislator, lobbyists**
- **Conflict of interest**





## Primary Focus Today

State Ethics Rules—Executive Branch of Indiana Government

# Executive Branch Rules Apply to:

- **Full and Part-Time Employees**
- **Special Appointees**
- **Statewide Elected Officials**
- **Appointees and Employees of State Boards and Commissions**
- **Appointees and Employees of Body Politic & Corporate (not a state agency but an independent instrumentality exercising public functions) (quasi-governmental entities)**
- **Those doing business with state government**



# Who does it not cover? Why is that important? (See IC 4-2-6-1 (a)(2) for exclusions)

## Legislature and Legislative Staff

- **Important to know because as a Legislative Liaison working for the Executive Branch, you must comply with state executive branch ethics rules.**
- **(Don't depend on others to know the rules for you.)**

## Judicial Branch

- **Comply with Judicial Ethics and—for example: (i.e.) Executive Branch ALJ's must comply with additional rules of conduct—(incorporated into IC 4-21.5-3 et. seq. to avoid bias, no ex parte communication)**





# IC 4-2-6-9 (Conflict of Interest-Voting)

## IC 4-2-5-10.5 (Conflicts-Contracts)

### Financial Interest Defined:

**IC 4-2-6-1** An interest in a purchase, sale, lease, contract, option or other transaction between an agency and any person involving property or services. Includes employment or prospective employment for which negotiations have begun. Also includes the issuance of a license or permit requiring judgment or discretion of an agency. (Does not include common stock unless more than 1% interest in the company.)





# Who is “immediate family” in conflicts of interest for voting and contracts?

(IC 4-2-6-9) (42 IAC 1-3-13)

**Spouse, partner, housemate,  
unemancipated dependent**



# Who: Relatives, Friends, Associates (Relatives—Defined in List in IC 4-2-6-1) (Nepotism IC 4-2-6-16) (agency appointing authority & direct line of supervision)



Stepchild



Mother



Sister/Sibling



Son-in-law



Spouse



Uncle



Child



Aunt





*Also consider the appearance of impropriety*

*(You know it when you see it.) Recommended: Include  
Relatives in Ethics Screens to be on the Safe Side*

*See Examples on OIG website*

# If you identify a conflict, what should you do?

## Participation Barred

Don't participate in any discussion or process from the beginning of the grant or contract application, bid, etc.

## Notify Appointing Authority in Writing & State Ethics Commission in Writing

File a Conflicts Form with State Ethics Commission or seek advisory opinion within 7 days: (IC 4-2-6-9)(E)

## Implement the Screen

Your board or agency may have a written screen in place already or it may need to write and implement one for the circumstance.

## Follow Screening Procedures

**Don't participate in any discussion from time of the grant or contract application**

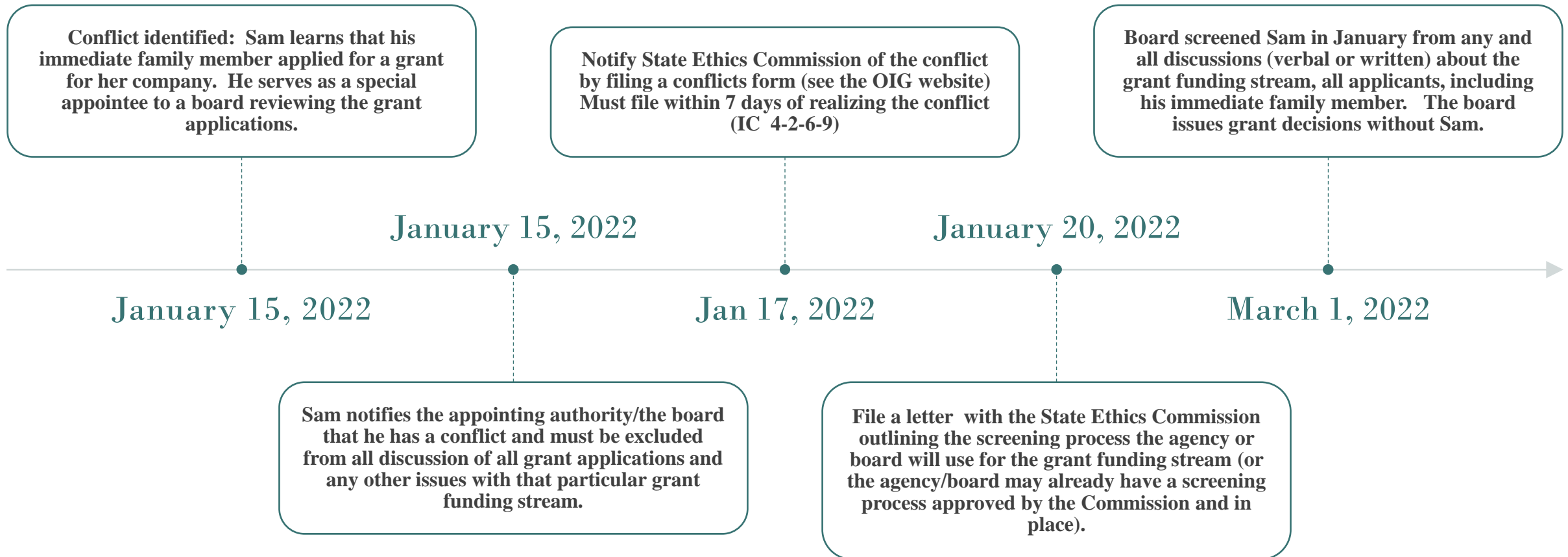
## Your agency may have special circumstances for screen by Indiana

### Code

For example: IEDC statute (business development-confidential business interests of companies) Conflict Form published on OIG later



# Sample Steps—Hypothetical





## **Other Potential Ethics Issues Rooted in Conflicts: Nepotism, Outside Employment Issues, Gifts, Use of State Property**

**(see chart in the presentation)**



# Other Areas--Potential Conflicts of Interest (Examples)

	Potential Issue	Potential Issue	Safe Harbors/Exceptions
<b>Subject: Outside Employment or Volunteer Work</b> <b>IC 4-2-6-5.5</b>	<b>Ghost employment</b> <b>IC 35-44.1-1-3</b> <b>Level 6 Felony</b>	<b>Subject Matter Conflicts</b>	<b>(No conflicts, not on state time, not using confidential information)</b>
<b>Subject: No Gifts</b> <b>42 IAC 1-5-1</b>	<b>Prohibited except nominal souvenir (nominal is not defined) (i.e. a pen or key chain with a logo)</b>	<b>Unless Gift Waiver Approved (very limited circumstances— i.e. good for state government)</b>	<b>Exceptions: No business relationship; or de minimus; or food for work reception/lunch with 25 people</b>
<b>Subject: No Honoraria</b> <b>42 IAC 1-5-3</b>	<b>If additional compensation for your job (barred)</b>	<b>If person has business relationship with agency and seeks to influence (barred)</b>	<b>If accept on behalf of the state and remit to state treasury; or may accept personally if not connected to job &amp; on personal time</b>
<b>Subject: Use of State Property for State Job Only</b> <b>IC 4-2-6-17</b>	<b>For a second job or volunteer work (barred)</b>	<b>For political work (volunteer or paid) (barred)</b>	<b>De Minimus agency policy for personal use only</b>

# Helpful References

## Ind. Criminal Law- IC 35 et. Seq.; Federal Law

- **IC 35-44.1-1-4; 35-44.1-1-5 ; Profiteering; Bribery (solicit, accept, agree to accept) IC 35-44.1-1-2 (Level 5 felony)**
- **Ghost Employment: IC 35-44.1.1-1-3**
- **Federal bribery: 18 USCA 201**

## State Law: IC 4-2-6 et. Seq.

- **Conflicts of Interest and Voting: IC 4-2-6-9**
- **Conflicts of Interest & Contracts: IC 4-2-6-10.5**
- **Conflicts of Interest: IC 4-2-6-5.5**

## Executive Branch Code of Ethics 42 IAC 1 et. seq.

- **Conflicts of Interest & Voting: (42 IAC 1-5-5)**
- **Conflicts of Interest & Contracts: 42 IAC 1-5-7**
- **Ghost Employment: 42 IAC 1-5-13**
- **Confidential Information: 42 IAC 1-5-10; 42 IAC 1-5-11**



# Summary & Suggestions

- **Seek advice and assistance from the OIG.**
- **Be kind and civil always.**
- **Avoid gray areas and close calls.**
- **Remember that every person is important and can make a positive contribution to the work environment and state government. Always bring your “A game.”**







**Thank you!**

**Jennifer Thuma**

**Administrative Law  
Judge**

**Indiana Board of Tax  
Review**