

**CAUTION:** The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

**IC 4-2-6-5.5**

**IC 4-2-6-9**

**IC 4-2-6-10.5**

Subject to certain conditions, SEC found it was permissible for the ICJI executive staff to teach part-time at IUPUI, even though the two entities had several contracts with one another.

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No. 05-I-15

### **BACKGROUND:**

The Executive Staff of the Indiana Criminal Justice Institute (ICJI) may have the opportunity to teach Criminal Justice courses at Indiana University Purdue University, Indianapolis (IUPUI). IUPUI will compensate the employees for teaching. The Executive Staff of the Indiana Criminal Justice Institute consists of the Executive Director, Deputy Director of Public Policy and Research, Deputy Director of Administration and the Deputy Director of Programs. The Indiana Criminal Justice Institute has several contracts with IUPUI, and IUPUI receives several grants from the Indiana Criminal Justice Institute. Although the Executive Staff is responsible for the business decisions regarding contracts and grants, these teaching positions will not be paid with funds received from the contracts or grants.

The Executive Staff requests an official advisory opinion stating whether or not members of the Executive Staff of the Indiana Criminal Justice Institute can accept paid teaching positions from IUPUI.

### **QUESTION:**

Whether the Executive Staff of the ICJI may accept paid teaching positions to teach courses at Indiana University Purdue University, Indianapolis even though the university receives unrelated grants and contracts from ICJI.

### **RELEVANT LAW:**

1. Moonlighting

IC 4-2-6-5.5

2. Conflict of Interest

IC 4-2-6-9

3. Financial Interest in State Contracts

IC 4-2-6-10.5

### **ANALYSIS:**

The moonlighting rule prohibits second jobs which are “inherently incompatible” with the state job. In determining whether teaching at a university which receives state funding is inherently incompatible with the jobs of the employees of the Executive Staff, one must understand the job responsibilities of the Executive Staff as they relate to the university and the university’s receipt of state funds. It is unclear, at this point, whether and for what reason an ICJI Executive Staff member would have to recuse him/herself from any official state responsibilities due to having a financial interest in the university teaching position. It is possible that there is no inherent incompatibility with respect to the two positions, as long as no confidential information is disclosed or unwarranted privileges received by the Executive Staff of the ICJI.

The second issue concerns the financial conflict of interest rule. If a member of the ICJI staff obtains a paid teaching position with IUPUI, then the ICJI employee is prohibited from making a "decision or vote" on a matter where IUPUI has a financial interest in the outcome. This is because the ICJI employee is also an employee of IUPUI. To the extent that this situation actually arises, the ICJI employee will be required to recuse him/herself from the issue. This situation could lead to a determination that the two positions are inherently incompatible. There is not enough information at this point to determine whether a screening procedure is necessary or whether one is feasible.

The third issue concerns a state employee having a financial interest in a state contract.

"Financial interest" means an interest:

in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or

involving property or services.

The term includes an interest arising from employment . . . IC 4-2-6-1 (9).

As stated earlier, ICJI has many contracts and grants with IUPUI. An ICJI employee cannot have a financial interest in a state contract with IUPUI. As long as the teaching positions are not paid by a state contract or state grants, then the ICJI employee does not have a financial interest therein.

### **CONCLUSION:**

No inherent ethical violation exists for the Executive staff of ICJI to teach part-time at IUPUI. The teaching responsibilities must be in accordance with the facts stated in this opinion:

The courses taught are introductory criminal justice courses;

All teaching and preparation must occur at times other than state business hours;

No confidential state information may be disclosed;

No state employee may receive any benefits or privileges that are not available to other adjunct faculty at IUPUI;

The teaching position cannot be funded by any state contracts or state grants with IUPUI; and

Any state employee who is employed by IUPUI must recuse him/herself in any ICJI decision or vote regarding ICJI funds that are under consideration for IUPUI's use.