

# **“Finding Resolutions”**

## **HEA 1031**

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## Background



- Repeat Findings
- HB 1031 -> HEA 1031 -> IC 5-11-5-1.5
- Representative Slager

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Ultimately, this topic is about Repeat Findings.

This began as House Bill 1031, turned into House Enrolled Act 1031 when Gov. Holcomb signed it on April 25<sup>th</sup> and then ultimately became IC 5-11-5-1.5 on July 1.

This bill was authored by Representative Slager. This is not legislation that we sought out, but it was legislation that we supported. A little background on Representative Slager. It is my understanding that he is from Northwest Indiana, and has a history in local government, as he spent more than a decade on the board of a local solid waste management district prior to being elected into his current position.

## Definitions



- Findings
- Examination Report
- Audit Committee

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Findings - both Federal Findings (Section II & Section III), as well as Results and Comments (noncompliance with statute or an SBOA uniform compliance guideline).

Examination Report – We perform many different kinds of engagements (audits, examinations, reviews, etc.), but when the statute says Examination or examination report, they are referring to any engagement type (and the subsequent report) that we perform.

Audit Committee – This refers to the Audit Committee that was established by IC 2-5-1.1-6.3. That Audit Committee is made up of 5 legislatures and they provide a review of and oversight of SBOA. As you will see later, they also will monitor actions of examined entities and will follow-up on reported findings.

IC 5-11-5-1.5(a)



- Audited Entity
  
- Municipality

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“As used in this section, “audited entity” includes only the following:

- (1) A state agency (as defined by IC 4-13-1-1).
- (2) A public hospital.
- (3) A municipality.**
- (4) A body corporate and politic.
- (5) A state educational institution.
- (6) An entity to the extent that the entity is required to be examined under IC 5-11-1-9 or another law.”

IC 5-11-5-1.5(b)



- Finding in a report
- Audited entity must address

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“If an examination report contains a finding that an audited entity failed to observe a uniform compliance guideline established under IC 5-11-1-24(a) or to comply with a specific law, the audited entity shall take action to address the audit finding.”

IC 5-11-5-1.5(C)



- Repeat Finding
  - Subsequent examination report
  - Same or substantially the same
  
- Corrective Action Plan (CAP)

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“If a subsequent examination report of the audited entity contains a finding that is the same as or substantially similar to the finding contained in the previous examination report described in subsection (b), the public officer of the audited entity shall file a corrective action plan as a written response to the report under section 1(b) of this chapter.”

IC 5-11-5-1.5(d)



- CAP
- SBOA creates guidelines
- Within 6 months

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“The state board of accounts shall create guidelines for use by an audited entity to establish a corrective action plan described in subsection (c). The guidelines must include a requirement that the issue that is the subject of a finding described in subsection (c) must be corrected not later than six (6) months after the date on which the corrective action plan is filed.”

IC 5-11-5-1.5(e)



- CAP completed
  - Notify SBOA
- SBOA Reviews
  - If CAP not submitted, or
  - Issue not corrected
    - Prepare Memo to Audit Committee

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“After the successful completion of a corrective action plan by an audited entity that was required to file a corrective action plan under subsection (c), the audited entity shall notify the state board of accounts. The state board of accounts shall review each corrective action plan. If a corrective action plan is not implemented or the issue that is subject of the finding is not corrected within six (6) months, the state board of accounts shall prepare a memorandum summarizing:

- (1) the examination report finding;
- (2) the corrective action plan;
- (3) the manner by which the examination report finding was or was not addressed; and
- (4) a recommended course of action.”



IC 5-11-5-1.5(f)



- Submit Memo to Audit Committee
- Audit Committee Options:
  - Written Statement
  - Attendance of public officer
  - Corrective Action

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“The state board of accounts shall present to the audit committee established by IC 2-5-1.1-6.3 a memorandum described in subsection (e). If the audit committee determines that further action should be taken, the audit committee may do any of the following: (1) Request a written statement from the public officer of the audited entity. (2) Request the personal attendance of the public officer of the audited entity at the next audit committee meeting. (3) Request that the public officer of the audited entity take corrective action.”



- **Audit Committee Options:**
  - Notify officer, CEO, Legislative & Fiscal Bodies
  - Notify local prosecuting attorney
  - Legislative Change
  - SBOA examination

(4) Notify the: (A) office of management and budget (in the case of an audited entity that is a state agency, a body corporate and public, or a state educational institution); or (B) officer or chief executive officer, legislative body, and fiscal body of the audited entity and the department of local government finance (in the case of an other audited entity); That the audited entity refused to correct the audited entity's failure to observe a uniform compliance guideline established under IC 5-11-1-24(a), or refused to comply with a specific law, with notice of the recommendation described in subsection (e)(4) published on the general assembly's Internet web site. (5) Refer the facts drawn from the examination and the actions taken under this section for investigation and prosecution of a violation of IC 5-11-1-10 or IC 5-11-1-21 to the: (A) Inspector general, in the case of an audited entity that is a state agency, a body corporate and politic, or a state educational institution; or (B) prosecuting attorney of the county in which a violation of IC 5-11-1-10 or IC 5-11-1-21 may have been committed in the case of any other audited entity; With notice of the referral published on the general assembly's Internet web site. Notice of referral described in clause (B) must be sent to the officer of chief executive officer, legislative body, and fiscal body of the audited entity.

## Findings



- Federal Findings
- Results and Comments
  - Public Report –vs- ‘Verbal’ Comments

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This applies to Federal Findings (Section II & Section III)

Results and Comments are those that we write up due to noncompliance with applicable laws, or our uniform compliance guidelines. In the passed, we have issued comments that have appeared in the public report, as well as verbal comments, they we just tell you, ‘hey, this is not compliant, but we are not putting it into the public report.’ That won’t change, but what will change is that we are adding a third level in there. We are going to start issuing a Management Letter. With this, comments that are deemed substantial or impactful to your county or the public will go in the public report. Comments that are trivial and isolated will be verbal comments. All others will go in the management letter. We anticipate the majority of our comments will go in the management letter moving forward.

## Timeline



- **Management Letter**
  - Engagements exiting after October 1
- **Corrective Action Plan**
  - Engagements begun after December 1, 2017 and exiting after February 1, 2018

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Technically, the law went into effect July 1, but because of the changes we are implemented, and the need to make sure we are training officials, the implementation has been delayed and will occur in steps.

We have begun using the management letter as of those engagements that exit after October 1.

We will begin requiring the CAP for those engagements that begin after December 1, 2017 and exit after February 1, 2018. At that point, any report that has been released and is a public report will be used as a baseline to determine repeat findings.

Public Records?



- Management Letter
- Corrective Action Plan

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From our standpoint, both of these items are considered part of our workpapers, and therefore are NOT a public record. If someone were to submit a public records request of our agency asking for \_\_\_\_\_ Library's Corrective Action Plan, we would deny that. However, from your standpoint, we are not sure. We are asking you and your association to do that research and work with the Public Access Counselor to determine if it is a public record from your standpoint.

Corrective Action Plan



- Unit Name
- Report Period
- Title of Finding
- Contact Person
  - Contact information

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See additional materials on our website

Unit Name: \_\_\_\_\_ Library, \_\_\_\_\_ County

Report Period: January 1, 20XX – December 31, 20XX

Title of Finding: If Federal Finding, include the finding number (i.e. 2015-001). If it is a Result and Comment, include the title of the comment as it appears in the report

Contact Person: Name of individual responsible for submitting the CAP

Contact Information: Phone number and Email Address of the Contact Person

Corrective Action Plan (continued)



- State the Issue
- Requirement not Followed
- Unit Response
- Root Cause
- Steps to be Taken

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State the Issue: In your own words, state what the noncompliance was

Requirement not Followed: list the statute or uniform compliance guidelines that was not followed. This is to make sure that you understand the requirement.

Unit Response: If you agree with the finding, you will just state that. If you disagree, you will need to explain why you disagree with the finding

Root Cause: You will need to identify what happened that led to the noncompliance. Are there not controls over that area? Are there controls, but they failed? Were controls circumvented in some way?, etc.

Steps to be taken: In a very detailed manner, described the steps you will go through to correct the noncompliance



- Implementation Timeline
  - If not within 6 months, why?
- Summary

Implementation Timeline: As required in the statute, the CAP will include a timeline of completion. We will expect this to go hand in hand with the steps to be taken from the prior slide. If your timeline is longer than 6 months, which we expect to only occur in limited situations, then you will need to explain why it will take longer than 6 months.

Summary: Finally, summarize how completing the steps you are outlining in your CAP will prevent the noncompliance from occurring again in the future.





- Required 10 days after exit
  - CAP@sboa.in.gov
  - Form on our website
  
- Federal CAP –vs– ‘our’ CAP

Within 10 days of your exit conference, we will ask that you either submit your corrective action plan, or that you contact us requesting more time. As you saw, the CAP will be detailed, so we anticipate that it will take longer than 10 days, but if that is the case, then we want to hear from you on when you think you will be able to complete it.

CAP@sboa.in.gov is how you will communicate that to us. We have provided a template of the CAP, and that is what we just went through. Ultimately, the CAP will be required to be submitted through our website. You will be given the link at the exit conference. Once the CAP is submitted, we will review it and let you know that it is approved.

For all federal findings, you are currently completing a Corrective Action Plan for the feds. That will NOT change. For any federal findings, you will still be required to submit that CAP. However, for those Federal Findings that are also repeat findings, you will be required to do both CAPs. Now our CAP is much more detailed than what typically gets included with the federal finding in the report. If you do not want to do both, that is fine, you will just then be required to submit our CAP, since it does have more detail. That also means that you would have to have it down prior to the exit conference, instead of having 10+ days after the exit to get it completed.

Corrective Action Plan (continued)



- Upon Completion, contact SBOA
  - CAP@sboa.in.gov
- SBOA Review and verification
- Memo to Audit Committee

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Once you have finished the CAP, you will be required to notify us. Again, that will be done through the CAP@sboa.in.gov email address. At that point, we are required to review and verify that the issue is resolved.

If a CAP is not submitted or the issue is not resolved within 6 months, then we will prepare and send the memo to the audit committee.

## “Finding Resolutions”



- **Representative Slager:**

- “I remember saying, ‘Rather than spending time writing letters trying to justify why we do things differently, why not just fix the problem?’”

- **Potential Solutions from SBOA**

- **De Facto Appeals Process**

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Finishing up where we started...“Finding Resolutions!” Going back to Representative Slager, as they were go through the process of getting this bill passed, I read a few news articles regarding the bill. In one of the articles, Representative Slager was quoted as saying “I remember saying, ‘Rather than spending time writing letters trying to justify why we do things differently, why not just fix the problem?’” This goes back to his days on the board of the local district. The whole goal with this law is to Find Resolutions to these issues. We don’t see these findings as an issue at the local government level, but an issue for us as a state. We want to work with you to help come up with resolutions to these issues. So, with that, for every noncompliance issue that we find, whether it be a verbal comment, management letter level comment, public report comment, or a federal finding, we are going to give you potential solutions with that. In our position as auditors, we can not tell you exactly what to do to correct these issues, we can not make management decisions, but we can give you suggestions. So, over this summer and early fall we have been working extensively with our staff to make sure we are supplying you with good potential solutions for these noncompliance issues. We would love to get to a point where we never have a repeat finding again!

Lastly, we see this working as a de facto appeals process. If there is a situation where a local government unit absolutely disagrees with the finding, we will still go through all the steps, the CAP, etc., but ultimately, we will turn that over to the Audit Committee and ask them to address that.

Questions?



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