IC 4-2-6

Chapter 6. Ethics and Conflicts of Interest

IC 4-2-6-0.1

Repealed

(As added by P.L.220-2011, SEC.14. Repealed by P.L.63-2012, SEC.1.)

IC 4-2-6-1

Definitions

Sec. 1. (a) As used in this chapter, and unless the context clearly denotes otherwise:

(1) "Advisory body" means an authority, a board, a commission, a committee, a task force, or other body designated by any name of the executive department that is authorized only to make nonbinding recommendations.

(2) "Agency" means an authority, a board, a branch, a bureau, a commission, a committee, a council, a department, a division, an office, a service, or other instrumentality of the executive, including the administrative, department of state government. The term includes a body corporate and politic set up as an instrumentality of the state and a private, nonprofit, government related corporation. The term does not include any of the following:

(A) The judicial department of state government.

(B) The legislative department of state government.

(C) A state educational institution.

(D) A political subdivision.

(3) "Appointing authority" means the following:

(A) Except as provided in clause (B), the chief administrative officer of an agency. The term does not include a state officer.

(B) For purposes of section 16 of this chapter, "appointing authority" means:

(i) an elected officer;

(ii) the chief administrative officer of an agency; or

(iii) an individual or group of individuals who have the power by law or by lawfully delegated authority to make appointments.

(4) "Assist" means to:

(A) help;

(B) aid;

(C) advise; or

(D) furnish information to;

a person. The term includes an offer to do any of the actions in clauses (A) through (D).

(5) "Business relationship" includes the following:

(A) Dealings of a person with an agency seeking, obtaining,

establishing, maintaining, or implementing:

(i) a pecuniary interest in a contract or purchase with the agency; or

(ii) a license or permit requiring the exercise of judgment or discretion by the agency.

(B) The relationship a lobbyist has with an agency.

(C) The relationship an unregistered lobbyist has with an agency.

(6) "Commission" refers to the state ethics commission created under section 2 of this chapter.

(7) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

(8) "Direct line of supervision" means the chain of command in which the superior affects, or has the authority to affect, the terms and conditions of the subordinate's employment, including making decisions about work assignments, compensation, grievances, advancements, or performance evaluation.

(9) "Employee" means an individual, other than a state officer, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services.

(10) "Employer" means any person from whom a state officer or employee or the officer's or employee's spouse received compensation.

(11) "Financial interest" means an interest:

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

(B) involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of a state officer or employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee.

(12) "Information of a confidential nature" means information:

(A) obtained by reason of the position or office held; and

(B) which:

(i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);

(ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or

(iii) is not in a public record, but if it were, would be confidential.

(13) "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

(14) "Political subdivision" means a county, city, town, township, school district, municipal corporation, special taxing district, or other local instrumentality. The term includes an officer of a political subdivision.

(15) "Property" has the meaning set forth in IC 35-31.5-2-253.

(16) "Relative" means any of the following:

(A) A spouse.

(B) A parent or stepparent.

(C) A child or stepchild.

(D) A brother, sister, stepbrother, or stepsister.

(E) A niece or nephew.

(F) An aunt or uncle.

(G) A daughter-in-law or son-in-law.

For purposes of this subdivision, an adopted child of an individual is treated as a natural child of the individual. For purposes of this subdivision, the terms "brother" and "sister" include a brother or sister by the half blood.

(17) "Represent" means to do any of the following on behalf of a person:

(A) Attend an agency proceeding.

(B) Write a letter.

(C) Communicate with an employee of an agency.

(18) "Special state appointee" means a person who is:

(A) not a state officer or employee; and

(B) elected or appointed to an authority, a board, a commission, a committee, a council, a task force, or other body designated by any name that:

(i) is authorized by statute or executive order; and

(ii) functions in a policy or an advisory role in the executive (including the administrative) department of state government, including a separate body corporate and politic.

(19) "State officer" means any of the following:

(A) The governor.

(B) The lieutenant governor.

(C) The secretary of state.

(D) The auditor of state.

(E) The treasurer of state.

(F) The attorney general.

(G) The superintendent of public instruction.

(20) The masculine gender includes the masculine and feminine.

(21) The singular form of any noun includes the plural wherever appropriate.

(b) The definitions in IC 4-2-7 apply throughout this chapter.

(Formerly: Acts 1974, P.L.4, SEC.2.) As amended by P.L.13-1987, SEC.4; P.L.5-1988, SEC.18; P.L.9-1990, SEC.1; P.L.15-1992, SEC.1; P.L.8-1993, SEC.7; P.L.22-1995, SEC.1; P.L.5-1996, SEC.1; P.L.44-2001, SEC.1; P.L.222-2005, SEC.1; P.L.89-2006, SEC.1; P.L.2-2007, SEC.19; P.L.105-2012, SEC.1; P.L.114-2012, SEC.7; P.L.123-2015, SEC.21.

IC 4-2-6-2

Commission; creation; membership; vacancies

Sec. 2. (a) There is created a state ethics commission.

(b) The commission is composed of five (5) members appointed by the governor.

(c) No more than three (3) commission members shall be of the same political party. A person who:

(1) holds an elected or appointed office of the state;

(2) is employed by the state; or

(3) is registered as a lobbyist under IC 4-2-7;

may not be a member of the commission. The governor shall designate one (1) member of the commission as the chairperson. Each appointment to the commission is for a period of four (4) years. A vacancy shall be filled by the governor for the unexpired term.

(d) The inspector general shall provide rooms and staff assistance for the commission.

(Formerly: Acts 1974, P.L.4, SEC.2.) As amended by P.L.13-1987, SEC.5; P.L.222-2005, SEC.2; P.L.89-2006, SEC.2.

IC 4-2-6-2.1

Compensation of members

Sec. 2.1. Each member of the commission is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

As added by P.L.9-1990, SEC.2.

IC 4-2-6-2.5

Jurisdiction of commission

Sec. 2.5. The commission has jurisdiction over the following persons:

(1) A current or former state officer.

(2) A current or former employee.

(3) A person who has or had a business relationship with an

agency.

(4) A current or former special state appointee.

As added by P.L.9-1990, SEC.3. Amended by P.L.15-1992, SEC.2; P.L.222-2005, SEC.3.

IC 4-2-6-3

Repealed

(Formerly: Acts 1974, P.L.4, SEC.2. As amended by P.L.13-1987, SEC.6. Repealed by P.L.222-2005, SEC.50.)

IC 4-2-6-4

Commission; powers and duties; inspector general; complaints open to public inspection after finding probable cause; exceptions

Sec. 4. (a) The commission may do any of the following:

(1) Upon a vote of four (4) members, refer any matter within the inspector general's authority to the inspector general for investigation.

(2) Receive and hear any complaint filed with the commission by the inspector general that alleges a violation of:

(A) this chapter;

(B) a rule adopted under this chapter;

(C) IC 4-2-7;

(D) a rule adopted under IC 4-2-7;

(E) IC 4-2-8; or

(F) a rule adopted under IC 4-2-8.

(3) Obtain information and, upon a vote of four (4) members, compel the attendance and testimony of witnesses and the production of pertinent books and papers by a subpoena enforceable by the circuit or superior court of the county where the subpoena is to be issued.

(4) Recommend legislation to the general assembly relating to the conduct and ethics of state officers, employees, special state appointees, and persons who have business relationships with agencies.

(5) Adopt rules under IC 4-22-2 to implement this chapter.

(6) Accept and file information:

(A) voluntarily supplied; and

(B) that exceeds the requirements of this chapter.

(7) Conduct research.

(b) The commission shall do the following:

(1) Act as an advisory body by issuing advisory opinions to interpret this chapter, IC 4-2-7, or the rules adopted under this chapter or IC 4-2-7, upon:

(A) request of:

(i) a state officer or a former state officer;

(ii) an employee or a former employee;

(iii) a person who has or had a business relationship with an agency;

(iv) a special state appointee or former special state appointee; or

(v) the inspector general; or

(B) motion of the commission.

(2) Conduct its proceedings in the following manner:

(A) When a complaint is filed with the commission, the commission may:

(i) reject, without further proceedings, a complaint that the commission considers frivolous or inconsequential;

(ii) reject, without further proceedings, a complaint that the commission is satisfied has been dealt with appropriately by an agency;

(iii) upon the vote of four (4) members, determine that the complaint does not allege facts sufficient to constitute a violation of this chapter or the code of ethics and dismiss the complaint; or

(iv) forward a copy of the complaint to the attorney general, the prosecuting attorney of the county in which the alleged violation occurred, the state board of accounts, a state officer, the appointing authority, or other appropriate person for action, and stay the commission's proceedings pending the other action.

(B) If a complaint is not disposed of under clause (A), a copy of the complaint shall be sent to the person alleged to have committed the violation.

(C) If the complaint is not disposed of under clause (A), the commission may promptly refer the alleged violation for additional investigation by the inspector general. If the commission finds by a majority vote that probable cause exists to support an alleged violation, it shall set a public hearing on the matter. The respondent shall be notified within fifteen (15) days of the commission's determination. Except as provided in this section, the commission's evidence relating to an investigation is confidential.

(D) A complaint filed with the commission is open for public inspection after the commission finds that probable cause exists. However, a complaint filed by the inspector general that contains confidential information under IC 4-2-7-8 may be redacted to exclude the confidential information. Every hearing and other proceeding in which evidence is received by the commission is open to the public. Investigative reports by the inspector general that are not filed with the commission may be kept confidential.

(E) A:

(i) complaint that is filed with; or

(ii) proceeding that is held by;

the commission before the commission has found probable cause is confidential unless the target of the investigation

elects to have information disclosed, or the commission elects to respond to public statements by the person who filed the complaint.

(F) The commission may acknowledge:

(i) the existence and scope of an investigation before the finding of probable cause; or

(ii) that the commission did not find probable cause to support an alleged violation.

(G) If a hearing is to be held, the respondent may examine and make copies of all evidence in the commission's possession relating to the charges. At the hearing, the charged party shall be afforded appropriate due process protection consistent with IC 4-21.5, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross-examine opposing witnesses.

(H) After the hearing, the commission shall state its findings of fact. If the commission, based on a preponderance of the evidence, finds by a majority vote that the respondent has violated this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter, IC 4-2-7, or IC 4-2-8, it shall state its findings in writing in a report, which shall be supported and signed by a majority of the commission members and shall be made public.

(I) If the commission, based on a preponderance of the evidence, finds by a majority vote a violation of this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter, IC 4-2-7, or IC 4-2-8, the commission may also take any of the actions provided in section 12 of this chapter.

(J) The report required under clause (H) shall be presented to:

(i) the respondent;

(ii) the appointing authority or state officer of the employee, former employee, or special state appointee;

(iii) the appointing authority or state officer of an agency or office that has a business relationship with the person sanctioned; and

(iv) the governor.

(K) The commission may also forward the report to any of the following:

(i) The prosecuting attorney of each county in which the violation occurred.

(ii) The state board of accounts.

(iii) The state personnel director.

(iv) The attorney general.

(v) A state officer.

(vi) The appointing authority of the state employee or agency that has a business relationship with the person

sanctioned.

(vii) Any other appropriate person.

(L) If the commission finds the respondent has not violated a code or statutory provision or a rule adopted under this chapter, IC 4-2-7, or IC 4-2-8, it shall dismiss the charges.

(3) Review all conflict of interest disclosures received by the commission under IC 35-44.1-1-4, maintain an index of those disclosures, and issue advisory opinions and screening procedures as set forth in section 9 of this chapter.

(c) Notwithstanding IC 5-14-3-4(b)(8)(C), the records of the commission concerning the case of a respondent that are not confidential under IC 5-14-3-4(b)(2)(C) shall be available for inspection and copying in accordance with IC 5-14-3.

(Formerly: Acts 1974, P.L.4, SEC.2.) As amended by P.L.12-1983, SEC.4; P.L.13-1987, SEC.7; P.L.5-1988, SEC.19; P.L.9-1990, SEC.4; P.L.15-1992, SEC.3; P.L.44-2001, SEC.2; P.L.222-2005, SEC.4; P.L.89-2006, SEC.3; P.L.126-2012, SEC.1.

IC 4-2-6-4.3

Meetings

Sec. 4.3. The commission may not conduct a hearing under section 4(b)(2)(G) of this chapter by using electronic communication under IC 5-14-1.5-3.6.

As added by P.L.89-2006, SEC.4. Amended by P.L.134-2012, SEC.1.

IC 4-2-6-4.5

Violations reported; report to commission of action taken

Sec. 4.5. Whenever an appointing authority or a state officer receives a report under section 4(b)(2)(H) of this chapter, the appointing authority or state officer shall report to the commission the action taken in response to the report. The commission may require in the report that the appointing authority or the state officer submit the response required by this section in a reasonable, specified amount of time.

As added by P.L.13-1987, SEC.8. Amended by P.L.9-1990, SEC.5; P.L.89-2006, SEC.5.

IC 4-2-6-5

Repealed

(Formerly: Acts 1974, P.L.4, SEC.2. Repealed by P.L.222-2005, SEC.50.)

IC 4-2-6-5.5

Conflict of interest; advisory opinion by commission

Sec. 5.5. (a) A current state officer, employee, or special state appointee may not knowingly do any of the following:

(1) Accept other employment involving compensation of substantial value if the responsibilities of that employment are

inherently incompatible with the responsibilities of public office or require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired.

(2) Accept employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of state employment.

(3) Use or attempt to use the individual's official position to secure unwarranted privileges or exemptions that are:

(A) of substantial value; and

(B) not properly available to similarly situated individuals outside state government.

(b) A written advisory opinion issued by the commission stating that an individual's outside employment does not violate subsection (a)(1) or (a)(2) is conclusive proof that the individual's outside employment does not violate subsection (a)(1) or (a)(2).

As added by P.L.222-2005, SEC.5. Amended by P.L.89-2006, SEC.6; P.L.123-2015, SEC.22.

IC 4-2-6-6

Present or former state officers, employees, and special state appointees; compensation resulting from confidential information

Sec. 6. No state officer or employee, former state officer or employee, special state appointee, or former special state appointee shall accept any compensation from any employment, transaction, or investment which was entered into or made as a result of material information of a confidential nature.

(Formerly: Acts 1974, P.L.4, SEC.2.) As amended by P.L.15-1992, SEC.4; P.L.89-2006, SEC.7.

IC 4-2-6-7

State officers and employees; excess compensation for sale or lease; advisory body member exception

Sec. 7. (a) This section does not apply to a special state appointee who serves only as a member of an advisory body.

(b) A state officer, employee, or special state appointee may not receive compensation:

(1) for the sale or lease of any property or service which substantially exceeds that which the state officer, employee, or special state appointee would charge in the ordinary course of business; and

(2) from any person whom the state officer, employee, or special state appointee knows or, in the exercise of reasonable care and diligence should know, has a business relationship with the agency in which the state officer, employee, or special state appointee holds a position.

(Formerly: Acts 1974, P.L.4, SEC.2.) As amended by P.L.9-1990, SEC.6; P.L.89-2006, SEC.8.

IC 4-2-6-8

Financial disclosure; filing false statement; penalty

Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.

(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.

(3) Any person who is the appointing authority of an agency.

(4) The director of each division of the department of administration.

(5) Any purchasing agent within the procurement division of the department of administration.

(6) Any agency employee, special state appointee, former agency employee, or former special state appointee with final purchasing authority.

(7) The chief investment officer employed by the Indiana public retirement system.

(8) Any employee of the Indiana public retirement system whose duties include the recommendation, selection, and management of:

(A) the investments of the funds administered by the Indiana public retirement system;

(B) the investment options offered in the annuity savings accounts in the public employees' retirement fund and the Indiana state teachers' retirement fund;

(C) the investment options offered in the legislators' defined contribution plan; or

(D) investment managers, investment advisors, and other investment service providers of the Indiana public retirement system.

(9) An employee required to do so by rule adopted by the inspector general.

(b) The statement shall be filed with the inspector general as follows:

(1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).

(2) If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1), before filing a declaration of candidacy under IC 3-8-2 or IC 3-8-4-11, petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate

for one (1) of the state offices (unless the statement has already been filed when required under IC 3-8-4-11).

(3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.

(4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

(A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and

(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars ($100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either amounting to five thousand dollars ($5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional practice.

(B) The nature of the business.

(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.

(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.

(5) The name of any partnership of which the state officer,

candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). However, if the stock is held in a blind trust, the name of the administrator of the trust must be disclosed on the statement instead of the name of the corporation. A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars ($10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars ($1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

(Formerly: Acts 1974, P.L.4, SEC.2.) As amended by P.L.12-1983, SEC.5; P.L.13-1987, SEC.9; P.L.9-1990, SEC.7; P.L.3-1993, SEC.237; P.L.44-2001, SEC.3; P.L.14-2004, SEC.180; P.L.222-2005, SEC.6; P.L.89-2006, SEC.9; P.L.23-2011, SEC.2.

IC 4-2-6-9

Conflict of economic interests; commission advisory opinions; disclosure statement; written determinations

Sec. 9. (a) A state officer, an employee, or a special state appointee may not participate in any decision or vote, or matter relating to that decision or vote, if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter:

(1) The state officer, employee, or special state appointee.

(2) A member of the immediate family of the state officer, employee, or special state appointee.

(3) A business organization in which the state officer,

employee, or special state appointee is serving as an officer, a director, a member, a trustee, a partner, or an employee.

(4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment.

(b) A state officer, an employee, or a special state appointee who identifies a potential conflict of interest shall notify the person's appointing authority and ethics officer in writing and do either of the following:

(1) Seek an advisory opinion from the commission by filing a written description detailing the nature and circumstances of the particular matter and making full disclosure of any related financial interest in the matter. The commission shall:

(A) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter; or

(B) make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services that the state expects from the state officer, employee, or special state appointee.

(2) File a written disclosure statement with the commission that:

(A) details the conflict of interest;

(B) describes and affirms the implementation of a screen established by the ethics officer;

(C) is signed by both:

(i) the state officer, employee, or special state appointee who identifies the potential conflict of interest; and

(ii) the agency ethics officer;

(D) includes a copy of the disclosure provided to the appointing authority; and

(E) is filed not later than seven (7) days after the conduct that gives rise to the conflict.

A written disclosure filed under this subdivision shall be posted on the inspector general's Internet web site.

(c) A written determination under subsection (b)(1)(B) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter. A written determination under subsection (b)(1)(B) shall be filed with the appointing authority.

(Formerly: Acts 1974, P.L.4, SEC.2.) As amended by P.L.9-1990, SEC.8; P.L.15-1992, SEC.5; P.L.22-1995, SEC.2; P.L.222-2005, SEC.7; P.L.123-2015, SEC.23.

IC 4-2-6-10
Repealed

(Repealed by Acts 1978, P.L.2, SEC.428.)

IC 4-2-6-10.5

Prohibition against financial interest in contract; exceptions; disclosure statement; penalty for failure to file statement

Sec. 10.5. (a) Subject to subsection (b), a state officer, an employee, or a special state appointee may not knowingly have a financial interest in a contract made by an agency.

(b) The prohibition in subsection (a) does not apply to a state officer, an employee, or a special state appointee who:

(1) does not participate in or have contracting responsibility for the contracting agency; and

(2) files a written statement with the inspector general before the state officer, employee, or special state appointee executes the contract with the state agency.

(c) A statement filed under subsection (b)(2) must include the following for each contract:

(1) An affirmation that the state officer, employee, or special state appointee does not participate in or have contracting responsibility for the contracting agency.

(2) An affirmation that the contract:

(A) was made after public notice and, if applicable, through competitive bidding; or

(B) was not subject to notice and bidding requirements and the basis for that conclusion.

(3) A statement making full disclosure of all related financial interests in the contract.

(4) A statement indicating that the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee.

(5) In the case of a contract for professional services, an affirmation by the appointing authority of the contracting agency that no other state officer, employee, or special state appointee of that agency is available to perform those services as part of the regular duties of the state officer, employee, or special state appointee.

A state officer, employee, or special state appointee may file an amended statement upon discovery of additional information required to be reported.

(d) A state officer, employee, or special state appointee who:

(1) fails to file a statement required by rule or this section; or

(2) files a deficient statement;

before the contract start date is, upon a majority vote of the commission, subject to a civil penalty of not more than ten dollars ($10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars ($1,000).

As added by P.L.222-2005, SEC.8. Amended by P.L.123-2015, SEC.24.

IC 4-2-6-11

One year restriction on certain employment or representation; advisory opinion; exceptions; waivers; disclosure statements; restrictions on inspector general seeking state office

Sec. 11. (a) As used in this section, "particular matter" means any of the following:

(1) An application.
(2) A business transaction.
(3) A claim.
(4) A contract.
(5) A determination.
(6) An enforcement proceeding.
(7) An investigation.
(8) A judicial proceeding.
(9) A lawsuit.
(10) A license.
(11) An economic development project.
(12) A public works project.

The term does not include the proposal or consideration of a legislative matter or the proposal, consideration, adoption, or implementation of a rule or an administrative policy or practice of general application.

(b) A former state officer, employee, or special state appointee may not accept employment or receive compensation:

(1) as a lobbyist;
(2) from an employer if the former state officer, employee, or special state appointee was:
  (A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; and
  (B) in a position to make a discretionary decision affecting the:
    (i) outcome of the negotiation; or
    (ii) nature of the administration; or
(3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or to a parent or subsidiary of the employer;

before the elapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.

(c) A former state officer, employee, or special state appointee may not represent or assist 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 officer, employee, or special state appointee, even if the former state officer, employee, or special state appointee receives no compensation for the representation or assistance.

(d) A former state officer, employee, or special state appointee may not accept employment or compensation from an employer if the circumstances surrounding the employment or compensation would lead a reasonable person to believe that:

(1) employment; or

(2) compensation;

is given or had been offered for the purpose of influencing the former state officer, employee, or special state appointee in the performance of the individual's duties or responsibilities while a state officer, an employee, or a special state appointee.

(e) A written advisory opinion issued by the commission certifying that:

(1) employment of;

(2) consultation by;

(3) representation by; or

(4) assistance from;

the former state officer, employee, or special state appointee does not violate this section is conclusive proof that a former state officer, employee, or special state appointee is not in violation of this section.

(f) Subsection (b) does not apply to the following:

(1) A special state appointee who serves only as a member of an advisory body.

(2) A former state officer, employee, or special state appointee who has:

(A) not negotiated or administered any contracts with that employer in the two (2) years before the beginning of employment or consulting negotiations with that employer; and

(B) any contract that:

(i) the former state officer, employee, or special state appointee may have negotiated or administered before the two (2) years preceding the beginning of employment or consulting negotiations; and

(ii) is no longer active.

(g) An employee's or a special state appointee's state officer or appointing authority may waive application of subsection (b) or (c) in individual cases when consistent with the public interest. A waiver must satisfy all of the following:

(1) The waiver must be signed by an employee's or a special state appointee's:

(A) state officer or appointing authority authorizing the waiver; and

(B) agency ethics officer attesting to form.

(2) The waiver must include the following information:

(A) Whether the employee's prior job duties involved substantial decision making authority over policies, rules, or contracts.

(B) The nature of the duties to be performed by the employee for the prospective employer.

(C) 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.

(D) 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.

(E) The extent of economic hardship to the employee if the request for a waiver is denied.

(3) The waiver must be filed with and presented to the commission by the state officer or appointing authority authorizing the waiver.

(4) The waiver must be limited to an employee or a special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation of subsection (b) or (c).

The commission may conduct an administrative review of a waiver and approve a waiver only if the commission is satisfied that the information provided under subdivision (2) is specifically and satisfactorily articulated. The inspector general may adopt rules under IC 4-22-2 to establish criteria for post employment waivers.

(h) Subsection (b) applies, subject to waiver under subsection (g), to a former state officer, employee, or special state appointee who:

(1) made decisions as an administrative law judge; or

(2) presided over information gathering or order drafting proceedings;

that directly applied to the employer or to a parent or subsidiary of the employer in a material manner.

(i) A former state officer, employee, or special state appointee who forms a sole proprietorship or a professional practice and engages in a business relationship with an entity that would otherwise violate this section must file a disclosure statement with the commission not later than one hundred eighty (180) days after separation from state service. The disclosure must:

(1) be signed by the former state officer, employee, or special state appointee;

(2) certify that the former state officer, employee, or special state appointee is not an employee of the entity; and

(3) state in detail the treatment of taxes, insurance, and any other benefits between the entity and the former state officer, employee, or state appointee.

(j) The inspector general may not seek a state elected office before the elapse of at least three hundred sixty-five (365) days after leaving the inspector general position.

As added by P.L.9-1990, SEC.9. Amended by P.L.15-1992, SEC.6; P.L.222-2005, SEC.9; P.L.89-2006, SEC.10; P.L.1-2007, SEC.3; P.L.123-2015, SEC.25.

IC 4-2-6-11.5

Lobbyists prohibited from serving on executive branch boards, commissions, authorities, or task forces; exception for advisory bodies

Sec. 11.5. (a) This section applies only to a special state appointee appointed after January 10, 2005.

(b) Except as provided in subsection (c), a lobbyist may not serve as a special state appointee.

(c) A lobbyist may serve as a member of an advisory body.

As added by P.L.222-2005, SEC.10. Amended by P.L.89-2006, SEC.11.

IC 4-2-6-12

Violations; penalties; sanctions

Sec. 12. If the commission finds a violation of this chapter, IC 4-2-7, or IC 4-2-8, or a rule adopted under this chapter IC 4-2-7, or IC 4-2-8, in a proceeding under section 4 of this chapter, the commission may take any of the following actions:

(1) Impose a civil penalty upon a respondent not to exceed three (3) times the value of any benefit received from the violation.

(2) Cancel a contract.

(3) Bar a person from entering into a contract with an agency or a state officer for a period specified by the commission.

(4) Order restitution or disgorgement.

(5) Reprimand, suspend, or terminate an employee or a special state appointee.

(6) Reprimand or recommend the impeachment of a state officer.

(7) Bar a person from future state employment as an employee or future appointment as a special state appointee.

(8) Revoke a license or permit issued by an agency.

(9) Bar a person from obtaining a license or permit issued by an agency.

(10) Revoke the registration of a person registered as a lobbyist under IC 4-2-8.

(11) Bar a person from future lobbying activity with a state officer or agency.

As added by P.L.9-1990, SEC.10. Amended by P.L.15-1992, SEC.7; P.L.222-2005, SEC.11; P.L.89-2006, SEC.12.

IC 4-2-6-13

Retaliation against employee or former employee for filing complaint or furnishing information or testimony

Sec. 13. (a) Except as provided in subsection (b), a state officer, an employee, or a special state appointee shall not retaliate or threaten to retaliate against an employee, a former employee, a special state appointee, or a former special state appointee because the employee, former employee, special state appointee, or former special state appointee did any of the following:

(1) Filed a complaint with the commission or the inspector general.

(2) Provided information to the commission or the inspector general.

(3) Testified at a commission proceeding.

(b) A state officer, an employee, or a special state appointee may take appropriate action against an employee who took any of the actions listed in subsection (a) if the employee or special state appointee:

(1) did not act in good faith; or

(2) knowingly or recklessly provided false information or testimony to the commission.

(c) A person who violates this section is subject to action under section 12 of this chapter and criminal prosecution under IC 35-44.2-1-2.

As added by P.L.15-1992, SEC.8. Amended by P.L.44-2001, SEC.4; P.L.222-2005, SEC.12; P.L.89-2006, SEC.13; P.L.126-2012, SEC.2.

IC 4-2-6-14

Prohibitions; criminal penalty

Sec. 14. (a) A person may not do any of the following:

(1) Knowingly or intentionally induce or attempt to induce, by threat, coercion, suggestion, or false statement, a witness or informant in a commission proceeding or investigation conducted by the inspector general to do any of the following:

(A) Withhold or unreasonably delay the production of any testimony, information, document, or thing.

(B) Avoid legal process summoning the person to testify or supply evidence.

(C) Fail to appear at a proceeding or investigation to which the person has been summoned.

(D) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a commission proceeding or investigation to mislead a commissioner or commission employee.

(2) Alter, damage, or remove a record, document, or thing except as permitted or required by law, with the intent to prevent the record, document, or thing from being produced or used in a commission proceeding or investigation conducted by the inspector general.

(3) Make, present, or use a false record, document, or thing with the intent that the record, document, or thing appear in a commission proceeding or investigation to mislead a commissioner or commission employee.

(b) A person who violates subsection (a) is subject to criminal prosecution under IC 35-44.2-1-3.

As added by P.L.44-2001, SEC.5. Amended by P.L.222-2005, SEC.13; P.L.126-2012, SEC.3.

IC 4-2-6-15

Communications paid for with appropriations or from securities division enforcement account; use of state officer's name or likeness prohibited; exceptions

Sec. 15. (a) This section does not apply to the following:

(1) A communication made by the governor concerning the public health or safety.

(2) A communication:

(A) that a compelling public policy reason justifies the state officer to make; and

(B) the expenditure for which is approved by the budget agency after an advisory recommendation from the budget committee.

(b) This section does not prohibit a state officer from using in a communication the title of the office the state officer holds.

(c) As used in this section, "communication" refers only to the following:

(1) An audio communication.

(2) A video communication.

(3) A print communication in a newspaper (as defined in IC 5-3-1-0.4).

(d) 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.

(e) A state officer may not use the state officer's name or likeness in a communication paid for entirely or in part with:

(1) money from the securities division enforcement account established under IC 23-19-6-1(f); or

(2) appropriations from the state general fund made under IC 23-19-6-1(f).

As added by P.L.58-2010, SEC.33. Amended by P.L.114-2010, SEC.1.

IC 4-2-6-16

Nepotism

Sec. 16. (a) This chapter does not prohibit the continuation of a job assignment that existed on July 1, 2012.

(b) As used in this section, "employed" refers to all employment, including full-time, part-time, temporary, intermittent, or hourly. The

term includes service as a state officer or special state appointee.

(c) An individual employed in an agency may not hire a relative.

(d) Except as provided in subsection (e), an individual may not be employed in the same agency in which an individual's relative is the appointing authority.

(e) An individual may be employed in the same agency in which the individual's relative is the appointing authority, if the individual has been employed in the same agency for at least twelve (12) consecutive months immediately preceding the date the individual's relative becomes the appointing authority.

(f) Except as provided in subsection (e), an individual may not be placed in a relative's direct line of supervision.

(g) An individual employed in an agency may not contract with or supervise the work of a business entity of which a relative is a partner, executive officer, or sole proprietor.

(h) Any person within an agency who knowingly participates in a violation of this chapter is subject to the penalties set forth in section 12 of this chapter.

As added by P.L.105-2012, SEC.2.

IC 4-2-6-17

Use of state property for other than official business; exceptions; violations

Sec. 17. (a) Subject to IC 4-2-7-5, a state officer, an employee, or a special state appointee may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation that has been approved by the commission. The commission may withhold approval of a policy or rule that violates the intent of Indiana law or the code of ethics, even if Indiana law or the code of ethics does not explicitly prohibit that policy or rule.

(b) An individual who violates this section is subject to action under section 12 of this chapter.

As added by P.L.123-2015, SEC.26.