

42 IAC 1-5-5 Outside employment (IC 4-2-6-5.5)

A DCS Family Case Manager sought to volunteer with a city's Police Reserve Program. SEC found the potential for a conflict of interest to arise for the Case Manager—namely disclosing confidential information—during the execution of his duties as a Program participant would prohibit him from participating in the Program.

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The Indiana State Ethics Commission (“Commission”) issues the following advisory opinion concerning the State Code of Ethics pursuant to IC 4-2-6-4(b)(1).

BACKGROUND

A Family Case Manager employed by the Huntington County office of the State Department of Child Services (“DCS”) was seeking a position as a volunteer with the Huntington City Police Reserve Program (“Reserve Program”). The Reserve Program is voluntary and would require a time commitment of sixteen (16) hours per month from the Family Case Manager.

As a participant of the Reserve Program, the Family Case Manager would be charged with enforcing federal, state and local laws. In addition, he could participate in supervised patrols, investigations, and various other duties as assigned.

The Family Case Manager submitted a request to DCS for approval of his intended participation in the Reserve Program. In turn, DCS declined to approve the Family Case Manager's request. The agency specifically cited the great potential for a conflict of interest as the reason for denying his request.

In his request, the Family Case Manager indicated that he would fulfill the sixteen-hour time commitment required by the program on his personal time and would be screened from participating in a matter(s) that may present a conflict of interest with his state duties. In addition, the Family Case Manager presented a letter from the Chief of Police of the Huntington Police Department outlining the Family Case Manager's duties more specifically.

ISSUES

May the employee serve as a volunteer for the Huntington City Police Reserve Program while serving as a Family Case Manager for DCS?

RELEVANT LAW

IC 4-2-6-5.5

Conflict of interest; advisory opinion by inspector general

Sec. 5.5. (a) A current state officer, employee, or special state appointee shall not

knowingly:

(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; or

(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 or the individual's appointing authority or agency ethics officer granting approval of outside employment is conclusive proof that an individual is not in violation of subsection (a)(1) or (a)(2).

ANALYSIS

Based on the facts presented, the Family Case Manager would be prohibited from participating in the Reserve Program. Specifically, while the Family Case Manager's intended volunteer service with the Reserve Program would not trigger subsection (1), it does invoke consideration of the restriction set forth in subsection (2). The restriction in subsection (2) prohibits a state employee from engaging in business or professional activity that would require the individual to disclose confidential information that was gained in the course of state employment.

In this case, it is possible that a conflict of interest may arise if, in his capacity as a Reserve Program participant, would be required to disclose confidential information that he gained throughout the course of his employment as a DCS Family Case Manager. The duties and responsibilities of a Reserve Program participant could subject the Family Case Manager to a possible conflict of interest. Specifically, the Family Case Manager could be required to disclose confidential information gained while at DCS if he is called to the home of a parent or child who may be involved with DCS. According, the Commission finds that the potential for a conflict of interest to arise for the Family Case Manager during the execution of his duties as a volunteer Reserve Program participant would prohibit him from participating in the Program.

CONCLUSION

For the foregoing reasons, the Commission finds that the employee is prohibited from serving as a volunteer for the Huntington City Police Reserve Program while serving as a Family Case Manager for DCS.