

Document: Emergency Rule, **Register Page Number:** 27 IR 4034
Source: September 1, 2004, Indiana Register, Volume 27, Number 12
Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

TITLE 65 STATE LOTTERY COMMISSION

LSA Document #04-206(E)

DIGEST

Amends 65 IAC 1-4-1 concerning ethics definitions. Amends 65 IAC 1-4-5 concerning ethics, gifts, and gratuities. Adds 65 IAC 1-4-5.5 concerning contractor ethics restrictions. Effective July 22, 2004.

65 IAC 1-4-1

65 IAC 1-4-5

65 IAC 1-4-5.5

SECTION 1. 65 IAC 1-4-1 IS AMENDED TO READ AS FOLLOWS:

65 IAC 1-4-1 Definitions

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30-3-1

Sec. 1. (a) The definitions in this section apply to this rule.

(b) “Business relationship” means dealings between the commission and a person seeking, obtaining, establishing, maintaining, or implementing:

(1) a pecuniary interest in a contract or procurement; or

(2) a retailer contract.

~~(b)~~ **(c) “Compensation” means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered, or to be rendered, whether by that person or another.**

~~(c)~~ **(d) “Conflict of interest” means a situation in which a person’s private interest, usually of a financial or economic nature, may influence the person’s judgment in the performance of the person’s public duty.**

~~(d)~~ **(e) “Economic interest” means a person’s substantial financial interest in investments, employment, awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under consideration or consummated by the commission. A person will not be deemed to have an economic interest in a matter under consideration or consummated by the commission solely by reason of owning one percent (1%) or less of any class of outstanding securities which are issued by a party to the matter under consideration or consummated and are listed on a national securities exchange or actively traded in an over-the-counter market.**

~~(e)~~ **(f) “Employee” means an employee of the commission who is not an officer.**

~~(f)~~ **(g) “Honorarium” means a fee received for speeches, written articles, participation in discussion groups, and similar activities but does not include reimbursement for expenses.**

~~(g)~~ **(h) “Member” means a member of the commission, as described in IC 4-30-3-1.**

~~(h)~~ **(i) “Officer” means the director, any assistant director, and the director of the division of security for or of the commission.**

(j) “Public meeting” means an event that:

- (1) is a gathering of public officials not arranged to solicit the procurement of goods or services;**
- (2) involves a speech or participation in a presentation by a member, officer, or employee in the member’s, officer’s, or employee’s official capacity; or**
- (3) includes a formal educational program that the member, officer, or employee is attending to assist in the performance of official responsibilities.**

(State Lottery Commission; 65 IAC 1-4-1; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 404; emergency rule filed Dec 17, 1990, 3:20 p.m.: 14 IR 1073; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 22, 2004, 11:05 a.m.: 27 IR 4034)

SECTION 2. 65 IAC 1-4-5 IS AMENDED TO READ AS FOLLOWS:

65 IAC 1-4-5 Gifts and gratuities

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 5. (a) Members, officers, and employees shall not directly or indirectly request or accept any gift, favor, service, loan, or entertainment for themselves or others under circumstances that might reasonably be construed to influence the performance of their official duties for the commission.

(b) Members, officers, and employees may accept nominal courtesies, such as meals, token honorariums, certificates, plaques, cups, or similar items if extended in a spirit of hospitality, offered for speaking at a civic or club meeting or awarded for contributions to government, civic, athletic, recreational, social, fraternal, professional, religious, or comparable activities, so long as no payment of money is made and the value of any individual item is not in excess of fifty dollars (\$50) and the value of all such items accepted in a single year is not in excess of one hundred dollars (\$100). If the value of an individual item which is received from a person the recipient knows to be seeking to establish a business relationship with the commission exceeds twenty-five dollars (\$25), the receipt of the item shall be reported to the security division, which shall keep a record of all such reports. Notwithstanding anything in this section to the contrary, it shall not be a violation of this section for a member, officer, or employee to attend a social function or gathering, including a meal or party, provided by a vendor, including a vendor in a major procurement, if either:

- (1) the social function or gathering occurs at a convention, seminar, or gathering of lottery personnel from more than one (1) state and the invitation to the social function or gathering is generally made to all attendees at the convention, seminar, or gathering; or
- (2) the social function or gathering is approved by the director or the members, in advance.

(b) A member, officer, employee shall not accept gifts, favors, services, entertainment, food, or drink in any amount from a person who has a business relationship with the commission. Notwithstanding the foregoing, it shall not be a violation of this section for a member, officer, or employee to:

- (1) accept gifts, favors, services, entertainment, food, or drink from public agencies or public institutions;
- (2) consume food or drink at a public meeting to which twenty-five (25) or more individuals are invited;
- (3) accept mementos or souvenirs of nominal value received at public events, public ceremonies, or events commemorating official business;
- (4) give or accept gifts, favors, services, entertainment, food, or drink from relatives and social relationships provided that:
 - (A) any items of value are not deducted as a business expense; and
 - (B) the member, officer, or employee does not exercise decision making authority over a policy making or procurement decision affecting the business interests of the person;
- (5) accept discount and promotional programs approved and made available through the state of Indiana; or
- (6) attend a social function or other gathering, including a party or a meal, provided by a vendor if the event takes place at a convention, seminar, or gathering of lottery personnel from more than one (1) state and the invitation to the social function or gathering is generally made to all attendees at the convention, seminar, or gathering.

(c) Honoraria may only be accepted when:

- (1) the underlying activities are not connected with the member's, officer's, or employee's employment or appointment responsibilities;**
- (2) preparations for the underlying activities are on the member's, officer's, or employee's noncommission time and without use of commission resources; and**
- (3) the honoraria are not from a vendor doing business with the commission.**

(e) **(d)** Any gift, favor, or consideration which can be construed (as determined by the director or the members) to be provided in connection with commission duties and which a member, officer, or employee is not permitted by this section to accept shall be returned to the donor immediately using such procedures as the director establishes for such purpose.

(e) The director may, in the director's sole discretion, make exceptions to this section provided the rationale for such exceptions is in writing and consistent with the public interest. *(State Lottery Commission; 65 IAC 1-4-5; emergency rule filed Oct 24, 1989, 2:15 p.m.: 13 IR 405; emergency rule filed Dec 17, 1990, 3:20 p.m.: 14 IR 1074; readopted filed Nov 30, 2001, 11:02 a.m.: 25 IR 1268; emergency rule filed Jul 22, 2004, 11:05 a.m.: 27 IR 4034)*

SECTION 3. 65 IAC 1-4-5.5 IS ADDED TO READ AS FOLLOWS:

65 IAC 1-4-5.5 Contractor ethics restrictions

Authority: IC 4-30-3-7; IC 4-30-3-9

Affected: IC 4-30

Sec. 5.5. Contractors shall not offer or provide gifts, favors, services, entertainment, food, or drink to commission members, officers, or employees while seeking, obtaining, establishing, maintaining, or implementing a procurement or contract with the commission. In the event of a violation of this section, the commission may, in its sole discretion, terminate the contract. *(State Lottery Commission; 65 IAC 1-4-5.5; emergency rule filed Jul 22, 2004, 11:05 a.m.: 27 IR 4035)*

LSA Document #04-206(E)

Filed with Secretary of State: July 22, 2004, 11:05 a.m.