NEWLY ELECTED OFFICIALS

the Training Issue
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NEWLY ELECTED OFFICIALS
the Training Issue
Being Involved in Statewide Associations

By David Bottorff, Executive Director | dbottorff@indianacounties.org

For those finishing their term as an officeholder or leaving county employment at the end of the year, I want to thank you for serving the citizens of Indiana. For some, the decision to leave county office is due to term limits while other officials choose to move on to other challenges. Others may have been defeated due to a local issue or a national trend.

You subjected yourself to making difficult decisions for your community. You opened yourself to criticism and headaches. As you leave county government, I hope you leave with a sense of accomplishment and satisfaction.

As we bid farewell and thanks to county officials whose terms end Dec. 31, 2018 we prepare for the incoming class of new elected officials.

Often times, new officials do not immediately take advantage of county official organizations that are designed to assist county elected leaders. Too often, I have heard county officials express regret that they did not become more involved in the Association of Indiana Counties (AIC) or their affiliate organizations earlier in their careers.

Becoming involved in any organization helps develop meaningful relationships from which you will learn and hopefully grow in your profession. This means a commitment of personal time but it makes your job easier by learning best practices. Consistent and active involvement is the key to successfully developing relationships that will help you better serve taxpayers.

Attending AIC events and being active in the AIC is a fast track for learning about emerging issues, helping to create and influence public policy at the county, state and even national level. Our training classes through the Institute for Excellence in County Government are opportunities that can help you learn about county government and learn to be a more influential leader in your community (see page 6 for more information).
The training and education classes, opportunity for leadership and camaraderie are just a few of the reasons members enjoy active participation in the AIC. With partisan politics disregarded, active members create lifelong friends, colleagues and confidants. Our money saving programs can save taxpayers money.

The AIC’s legislative, training, awards and other committees are great ways to initially become involved in the AIC. The AIC’s Board of Directors offers many opportunities for involvement. Our 12 district officers and 18 affiliate positions are great opportunities to be engaged at the board level.

Being active in the AIC also opens the door for involvement in the National Association of Counties (NACo). The AIC has appointment authority to NACo’s 10 policy committees. The association’s 10 policy steering committees cover the full array of domestic policy issues impacting county governments and our local communities. These committees meet at least twice each year to review and make recommendations on public policy issues and legislation. The policy development process initiated by the steering committees is the foundation for the American County Platform, which is used to deliver the county government message to the President’s Administration, Congress and the American public.

We know your first priority is to your office and your county’s taxpayers. To maximize your efforts, the AIC can help you become a better county official so you can better serve taxpayers.

### Longtime County Officials Retiring in 2018

#### SERVING CONSTITUENTS FOR 8 OR MORE TERMS

<table>
<thead>
<tr>
<th>Name</th>
<th>County</th>
<th>Current Office</th>
<th>First Elected</th>
<th>Offices Held</th>
<th>Terms Held</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dill Dornell</td>
<td>Ohio</td>
<td>Council</td>
<td>1974</td>
<td>Council</td>
<td>11</td>
</tr>
<tr>
<td>Richard Miller</td>
<td>Howard</td>
<td>Council</td>
<td>1978</td>
<td>Council</td>
<td>10</td>
</tr>
<tr>
<td>Patricia French</td>
<td>Henry</td>
<td>Auditor</td>
<td>First served as deputy in 1978 and elected in mid-1980s</td>
<td>Auditor, Clerk, Treasurer</td>
<td>8</td>
</tr>
<tr>
<td>Brenda Brittain</td>
<td>Morgan</td>
<td>Assessor</td>
<td>1980</td>
<td>Assessor, Auditor, Treasurer</td>
<td>10</td>
</tr>
<tr>
<td>James Bayman</td>
<td>Whitley</td>
<td>Council</td>
<td>1982</td>
<td>Council</td>
<td>9</td>
</tr>
<tr>
<td>Rex Pranger</td>
<td>LaGrange</td>
<td>Surveyor</td>
<td>1986</td>
<td>Surveyor</td>
<td>8</td>
</tr>
</tbody>
</table>

#### SERVING CONSTITUENTS FOR 4 TO 7 TERMS

<table>
<thead>
<tr>
<th>Name</th>
<th>County</th>
<th>Current Office</th>
<th>First Elected</th>
<th>Offices Held</th>
<th>Terms Held</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nancy Dembowski</td>
<td>Starke</td>
<td>Council</td>
<td>1984</td>
<td>Council, State Rep., State Sen.</td>
<td>6</td>
</tr>
<tr>
<td>Linda Kovachich</td>
<td>Jennings</td>
<td>Assessor</td>
<td>1990</td>
<td>Assessor</td>
<td>7</td>
</tr>
<tr>
<td>Melinda Sudhoff</td>
<td>Fayette</td>
<td>Clerk</td>
<td>1990</td>
<td>Auditor, Clerk, Recorder</td>
<td>7</td>
</tr>
<tr>
<td>Shirley Batt</td>
<td>Washington</td>
<td>Treasurer</td>
<td>1992</td>
<td>Clerk, Treasurer</td>
<td>7</td>
</tr>
<tr>
<td>George Bachman</td>
<td>LaGrange</td>
<td>Council</td>
<td>1998</td>
<td>Commissioner, Council</td>
<td>5</td>
</tr>
<tr>
<td>Kim Carson</td>
<td>Noble</td>
<td>Assessor</td>
<td>1998</td>
<td>Assessor</td>
<td>5</td>
</tr>
<tr>
<td>Eldon Strong</td>
<td>Lake</td>
<td>Council</td>
<td>1998</td>
<td>Council, Township Office</td>
<td>5</td>
</tr>
<tr>
<td>Bonnie Brown</td>
<td>LaGrange</td>
<td>Clerk</td>
<td>1999</td>
<td>Clerk, Treasurer</td>
<td>5</td>
</tr>
<tr>
<td>Randall Bills</td>
<td>Washington</td>
<td>Auditor</td>
<td>2000</td>
<td>Auditor, Council</td>
<td>4</td>
</tr>
<tr>
<td>Terri Rethlake</td>
<td>St. Joseph</td>
<td>Clerk</td>
<td>2000</td>
<td>Clerk, Recorder</td>
<td>4</td>
</tr>
<tr>
<td>Cindy Yellet</td>
<td>Huntington</td>
<td>Auditor</td>
<td>2000</td>
<td>Auditor, Treasurer</td>
<td>4</td>
</tr>
<tr>
<td>Kathy Hopf</td>
<td>Dubois</td>
<td>Auditor</td>
<td>2002</td>
<td>Auditor</td>
<td>4</td>
</tr>
<tr>
<td>Bruce Lambert</td>
<td>White</td>
<td>Recorder</td>
<td>2002</td>
<td>Clerk, Recorder</td>
<td>4</td>
</tr>
<tr>
<td>Deborah Lewis</td>
<td>Vigo</td>
<td>Assessor</td>
<td>2002</td>
<td>Assessor</td>
<td>4</td>
</tr>
<tr>
<td>Jill Jackson</td>
<td>Johnson</td>
<td>Recorder</td>
<td>2002</td>
<td>Clerk, Recorder</td>
<td>4</td>
</tr>
<tr>
<td>Mary Jo Phares</td>
<td>Shelby</td>
<td>Auditor</td>
<td>2002</td>
<td>Auditor, Recorder</td>
<td>4</td>
</tr>
<tr>
<td>Mary Ann Lenkensdofer</td>
<td>Randolph</td>
<td>Auditor</td>
<td>2002</td>
<td>Auditor, Treasurer</td>
<td>4</td>
</tr>
<tr>
<td>Sue Anne Misiniec</td>
<td>Johnson</td>
<td>Clerk</td>
<td>2002</td>
<td>Clerk, Recorder</td>
<td>4</td>
</tr>
<tr>
<td>Roger Bainbridge</td>
<td>Grant</td>
<td>Auditor</td>
<td>2004</td>
<td>Auditor, Treasurer</td>
<td>4</td>
</tr>
</tbody>
</table>

Information in this table is based on information provided to the AIC by a survey of county officials whose term end dates were 2018. The survey was intended for county officials not running for re-election in 2018.
Lending Your Voice to AIC

By Ryan Hoff, General Counsel and Director of Government Relations | rhoff@indianacounties.org

After every election, there are new voices joining the public policy discussions that will impact your county every day. Some voices are county officials bringing new ideas and approaches to their offices. Other voices belong to those passing laws at the state and federal level which will impact county operations. At the Association of Indiana Counties, we take pride in representing Indiana’s 92 counties and all our affiliated county offices by helping to blend all these new approaches and points of view into a single voice when interacting with other levels of government.

One of AIC’s primary functions is to provide government relations services to our membership, both to the Indiana General Assembly and administration of the State of Indiana. AIC staff includes experienced government relations specialists who work with the AIC affiliate boards to promote both the interests of each affiliate and a unified voice across all affiliates through formal structures provided in our bylaws. Each affiliate office association (Assessors, Auditors, Clerks, Coroners, Commissioners, Council Members, Recorders, Surveyors, and Treasurers) maintains its own structure for decision making, but also has an appointment to the AIC Legislative Committee. The AIC Legislative Committee annually creates the AIC Legislative Platform and also provides guidance to AIC staff on legislation pending before the Indiana General Assembly.

The AIC relies upon the participation and input of our elected officials to not only understand how policy questions impact our membership on a daily basis, but to create a network of officials who are positioned to lend their voice to our efforts statewide. While AIC staff maintains a constant presence at the Indiana Statehouse during the legislative session, and consistently present policy input on behalf of our

<table>
<thead>
<tr>
<th>2019 AIC LEGISLATIVE COMMITTEE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Chair:</strong> Claudia Fuentes, Marion County Treasurer</td>
</tr>
<tr>
<td>Dan Bastin, Morgan County Auditor</td>
</tr>
<tr>
<td>Paula Bennett, Tippecanoe County ADA Coordinator</td>
</tr>
<tr>
<td>Marian Dunnichay, Madison County Coroner</td>
</tr>
<tr>
<td>Rick Gardner, Madison County Auditor</td>
</tr>
<tr>
<td>Jarrod Hahn, Wells County Surveyor</td>
</tr>
<tr>
<td>Al Logsdon, Spencer County Commissioner</td>
</tr>
<tr>
<td>Nancy Marsh, Hendricks County Auditor</td>
</tr>
<tr>
<td>Luke Mastin, Johnson County Highway Department</td>
</tr>
<tr>
<td>Anita Mather, Allen County Recorder</td>
</tr>
<tr>
<td>Barry McNulty, Hamilton County Health Department Administrator</td>
</tr>
<tr>
<td>Chris Mertens, Hamilton County IT Director</td>
</tr>
<tr>
<td>Tom Murtaugh, Tippecanoe County Commissioner</td>
</tr>
<tr>
<td>Anton Neff, Owen County Council</td>
</tr>
<tr>
<td>Elise Nieshalla, Boone County Council</td>
</tr>
<tr>
<td>Stacey O’Day, Allen County Assessor</td>
</tr>
<tr>
<td>Jay Phelps, Bartholomew County Clerk</td>
</tr>
<tr>
<td>Paula Stewart, Lawrence County Treasurer</td>
</tr>
</tbody>
</table>
Every legislative session, there will be hundreds of bills filed. In most years, nearly 40 percent of those bills will have some sort of impact on county government. AIC staff reviews all these bills and compiles them into lists for each affiliate to review. Each affiliate bill list will be sent to our membership via our weekly e-newsletter so that you can see what is happening at the statehouse that could impact you. If you have questions on any legislation, please feel free to contact the AIC for more information. Also, during the legislative session, the AIC will occasionally put out a Call for Action to request that our members contact their legislators on bills of high importance. These requests are always very time sensitive and your participation in contacting legislators can very much mean the difference between a bill’s passage or failure. We respect your time and efforts, so we only make these requests on bills of major importance and at critical periods of legislative session.

The AIC prides itself on representing the interests of our county government officials. However, it is your voice that gives strength to our efforts. Participating in the AIC – whether as a newly elected county official or as a veteran of county office – will strengthen and inform our voice when we represent your interests.

Membership, it is routinely far more effective when a legislator hears from one of the local officials who are elected in their own district. We urge you to get to know your legislators from your county, especially those who are also newly elected, and provide them with information on how various pieces of legislation will impact your office.

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AIC Offers Training and Continuing Education for All County Officials

By Jacque Clements, Director of Professional Development and Corporate Relations | JClements@indianacounties.org

“I Educate yourself about how county government works,” says retiring Washington County Treasurer Shirley Batt. Batt has served seven terms since 1992 as either clerk or treasurer.

“I Attend conferences and ask questions of veteran county officials,” says former AIC President Terri Rethlake who is retiring as St. Joseph County Clerk. Rethlake has served four terms since 2000 either as clerk or recorder.

“I Attend all training offered by State Associations,” says retiring Washington County Auditor Randall Bills. Bills has served four terms since 2000 either on the council or as auditor.

“I Attend the Newly Elected Officials conference,” says Rick Smith who is retiring as Wells County Assessor. Smith has served two terms since 2010 as assessor.

“All AIC offers tools & leadership skills for success,” says retiring Wells County Assessor Yvette Runkle. Wells has served two terms as clerk.

The Association of Indiana Counties (AIC) is dedicated to improving government through its educational program. In 2018, more than 700 members participated in the AIC Institute for Excellence in County Government program. One class per month is offered beginning in February. The AIC makes every effort to schedule classes in conjunction with our major events and affiliate members’ annual conferences.

The AIC Institute for Excellence in County Government, formerly the AIC DIPLOMA Program, was established in 1993 to provide officials and county employees access to training geared specifically to county government. The AIC brings in experts to educate members on various ways to manage challenges that may arise in office while providing the building blocks that will help every person working in local government. We help county government officials and employees become more efficient, solve tough problems, and find the resources county officials need to do their jobs well. We believe the starting point to all of this is education and training.
A variety of core courses have been developed for the AIC’s Institute for Excellence in County Government program. Additional elective classes are also offered to afford an atmosphere of learning in our ever-changing surroundings. In order to graduate and receive certification, members must complete 30 credits hours within a four-year term. While the program must be completed within your first term, it can be completed in one year. Graduating affiliate members receive their Institute Certificate at the AIC Annual Conference in the fall. The AIC graduated one of its largest classes of more than 40 county officials and employees in September.

Because education is a never-ending process, we have many members who continue their participation in the program after earning their diplomas. To earn a Continuing Education Certification, one must have previously earned their Institute Certificate and completed 20 credit hours within one calendar year. Continuing Education Certificates are awarded each year to those who continue with their pursuit of knowledge.

Along with continuing education certification, those people who have truly made education a priority can receive the Institute Masters Pins by accumulating additional credit hours in the program.

➤ The Silver Masters Pin requires 75 total credit hours.
➤ The Gold Masters Pin requires 125 total credit hours.
➤ The Platinum Masters Pin requires 180 total credit hours.

A wall plaque is presented to our most elite attendees when they have accrued at least 240 total credits to earn the Lifetime Achievement Award.

I look forward to seeing everyone at the 2019 AIC Institute for Excellence for County Government classes. Together let’s make 2019 an even larger graduation ceremony. •
LEAVING OFFICE?

Stay Informed through AIC Alumni Program

If you are leaving or have left county government, the AIC thanks you for your service to your county and your support of the AIC during your tenure.

If you would like to remain involved with the AIC, you may consider joining the AIC Alumni Program. For just $25* your AIC Alumni dues subscribe you to all issues of the Indiana News 92 magazine, all eNewsletters, and meeting notices, and also qualify you for the county official rate for conference registrations.**

AIC ALUMNI REGISTRATION FORM

First Name _____________________________________________

Last Name _____________________________________________

Street Address _____________________________________________

City _____________________________________________

State _____________________________________________ Zip _____________________________

Phone _____________________________________________

Email _____________________________________________

County where you served _____________________________________________

Last County Office Held _____________________________________________

Last Year Elected to Office _____________________________________________

Current Employer (if applicable) _____________________________________________

**Former county officials who work for companies that participate in AIC events such as Annual Conference, Legislative Conference, District Meetings, etc. are not eligible for the special AIC Alumni conference rates during their employment with vendor companies. *The AIC Alumni Program dues calendar runs January to December. Dues are renewable at the beginning of each calendar year.

Please send this registration form, along with your $25 fee to AIC at:

101 West Ohio St., Indianapolis, IN 46204

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Welcome NEOs

Message to Newly Elected Officials from the Indiana Office of Community and Rural Affairs

From all of us at the Indiana Office of Community and Rural Affairs (OCRA), we welcome you to your new position serving Hoosiers across our great state.

OCRA works with local, state and national partners to provide resources and technical assistance to aid communities in shaping and achieving their vision for community and economic development. A privilege of our agency is to award grants to fund public gathering places, fix water/sewer infrastructures, restore historic structures, build community facilities and revitalize commercial districts. These funds help communities improve their quality of life and ensure the health and safety of their citizens.

OCRA serves as the front door to state government and functions as a trusted advisor, convener and connector for Indiana’s communities through our relationships with local units of government. We encourage you to get to know one of our seven community liaisons assigned to your area. These professionals work closely with local elected officials, business leaders, community groups and residents in a designated region of the state. They understand the area, provide technical assistance on our grant programs and support communities through planning processes. To complement our community liaisons, OCRA also has project managers who develop initiatives, manage the project components and delivery along with overseeing feedback and evaluation. These leaders possess an entrepreneurial spirit and strive for innovation and improvement.

To help promote community prosperity, OCRA has developed a variety of programs to provide capacity-building solutions and assure ready, marketable and competitive communities for economic growth. These programs fall under four key competencies: capacity building, economic development, infrastructure and quality of place.

In May 2018, OCRA released the Strategic Plan for Rural Indiana which is a collaborative, innovative agenda to accomplish over the next three years. This will help you understand our priorities, goals and programs we are striving to achieve. To view the detailed strategic plan, visit www.in.gov/ocra.
Mark your calendars for the 2019 AIC Legislative Conference on February 5 & 6, 2019 at the Hilton Hotel in downtown Indianapolis. During this two day conference you will learn more about the legislative process as well as have further in depth discussions on current legislative issues affecting local government and each affiliate group.

Online registration is open for county officials and vendors at www.indianacounties.org. One day and two day registrations are available. A block of rooms for the nights of Monday, Feb. 4 and Tuesday, Feb. 5 has been reserved at the Hilton Hotel Indianapolis for $124 per night. Reservations must be made by Jan. 5, 2019 to be guaranteed the room rate. Be sure to check your email and the AIC website for details on the conference.
Changing of the Guard

HOW MUCH CHANGE IS LEGAL?

By Michael A. Blickman and Germaine Winnick Willett, Ice Miller LLP

Once the excitement of the campaign is over, and the election results are official, newly elected (and re-elected) county officials face a number of decisions, including decisions relating to employees and staffing. Every newly elected official considers “changing the guard” to assure that the individuals who work in the office’s key positions will be loyal and actively supportive of the official’s public agenda. Can an incumbent employee be terminated legally? The answer is that there are restrictions, but the basic rule to remember is that employees may be dismissed if they can be classified as “policymakers” or “confidential” employees, as the courts have defined those terms. Although this classification will be simple in some cases, in others it will be problematic.

LEGAL ISSUES

The First Amendment prohibits a public employer from making an employment decision about an employee (or an independent contractor) based on political affiliation, unless party affiliation is an appropriate requirement for the position involved. The U.S. Supreme Court has established the general proposition that a public employer can dismiss an employee for political reasons only if the employee is in a policymaking or confidential position. The court has also acknowledged that there may be circumstances under which political affiliation may be an appropriate consideration though the position is neither policymaking nor confidential in nature. Nevertheless, most cases ultimately turn on whether the employee fits into either the policymaking or confidential category.
Determining whether a position is a policymaking or confidential one is difficult and the result has been a rapid increase in litigation. The Supreme Court has stated that the ultimate question is really not whether the above labels fit a particular position, but “whether the hiring authority can demonstrate that party affiliation is an appropriate requirement for the effective performance of the public office involved.”

The leading Seventh Circuit decisions defining the policymaker exception state that the test to determine if a person is a policymaker requires the official to ask this question: Does the position authorize, either directly or indirectly, meaningful input into government decision making on issues where there is room for principled disagreement on goals or their implementation? This is obviously a very subjective standard. The analysis that a newly-elected official must make is also difficult because the court has stated that the job analysis must focus on the powers of the office, not on the activities of the person holding the office. This means that some positions in which individuals have informally functioned as policymakers, appearing otherwise to meet the test for the exception, may not, in fact, be policymakers because the inherent or statutory powers of the office are not that of a policymaker under the test. The courts have also considered as relevant whether the individual has a high salary, which indicates he or she is in a position of influence, whether the individual has responsibility for many employees and broad duties, or whether the individual acts as an advisor or formulates plans for the implementation of broad goals. However, no one factor is conclusive as to whether an employee is a policymaker.

POLICY MAKING POSITION EXAMPLES

• A city park administrator was a policymaker where he organized and coordinated recreation programs, prepared budgets, interviewed and recommended candidates for hire, and negotiated and signed contracts for the construction of a new civic center and all other contracts and leases executed by the parks and recreation commission.

• A deputy county auditor was a policymaker as a function of the office since a deputy has the same power and authority under state law as the auditor.

• An executive director of a county housing authority fit the description of an official whose political views can promote or defeat a political program and, as such, he was found to be a policymaker subject to political firing.

• A chief administrative law judge of a state department of professional regulation was a policymaker where he oversaw activities of subordinates, developed hearing program goals, formulated procedures for hearing programs, and provided legal advice to professional discipline boards.

• The department head of the city’s animal shelter and animal control operations was a policymaker where he had broad authority to implement, flesh out, and enforce animal control policies.

Let’s talk retirement today: Jennifer Brown
260-602-3726
The courts consider a “confidential employee” as a person in a position that has special access to and close communications with an elected official or appointed policymaker. For a person to be considered in a confidential position, he or she would likely need to be a party to politically sensitive communications and information which are critical to the policymaking process. The official can also consider whether loyalty is such an issue for a position that the individual might, if disloyal, interfere with a given political program. Personal secretaries, speech writers, agency heads, and policy-making supervisors are generally deemed to be in positions in which loyalty is a reasonable requirement. As noted above, the question is answered by looking at the position’s general scope of responsibility, not the particular activities engaged in by the incumbent employee. The fact that an employee legally serves at the pleasure of an elected official or body is legally irrelevant; the nature of duties is the determinative factor.

CONFIDENTIAL EMPLOYEE POSITION EXAMPLES

• A mayor’s secretary was a confidential employee where she was in a position that would make her privy to confidential information and maintained a role in various projects and initiatives of the mayor.

• A secretary to a sheriff was a confidential employee since the nature of the position placed her in a position controlling lines of communication.

• An executive coordinator to the village manager was a confidential employee because she reported directly to and worked closely with a policymaker.

For both policymaking and confidential positions, the courts will usually allow elected officials to rely on official job descriptions to determine whom they may replace on political grounds. However, the job description represents only a provisional safe harbor. Elected officials may rely on job descriptions only to the extent that they are objective and reliable, as shown by the methods by which they are created and updated. The courts will not allow an elected official to rely on the official job description if evidence suggests that it has been altered not to reflect actual changes in the duties of a position but, rather, to allow him or her to fill the position with a political favorite.

Practical Recommendations for the Newly-Elected Official

The newly-elected official can take certain precautions and steps to reduce the likelihood of litigation:

1. Don’t make any public statements, or private ones to the extent possible, about replacing, demoting, or transferring people upon being elected to office. You can talk about improving government efficiency and performance by making personnel changes, but you should indicate that these decisions will be based on non-political job performance criteria.

2. Don’t promise anyone a job, promotion, salary increase, or other benefit. Such promises may be used as evidence that subsequent employment decisions were made on the basis of impermissible political considerations.
3. After the election, prepare a list of all positions and analyze which ones fall within the exceptions to the anti-patronage principles described above. You can then begin to make plans as to how you want to fill those positions.

4. Gather all job descriptions for non-merit employees and categorize them into three groups: clearly ministerial, clearly policymaking/confidential, and those involving mixed functions. Individuals holding jobs in the clearly ministerial category may not be dismissed merely because they are affiliated with the other party. Dismissals of these employees for competency or budgetary reasons should be well-documented before being implemented. In order to have sufficient time to review personnel records and investigate financial considerations, you should consider postponing termination decisions until after you take office. Those holding jobs in the clearly policymaking/confidential category may be dismissed simply because they belong to the other party, as the newly-elected official will want to have the policymaking team on board from the first day in order to set the tone for the new administration.

5. The mixed function category will be the largest and, by far, the most problematic. The job descriptions should be studied to determine the duties for which political affiliation is an appropriate requirement for effective performance. There may be opportunities to revise job descriptions, and the development of these descriptions should stress formal job-related criteria. In order to rely on that job description in making future employment decisions, any revisions must be justified by actual changes in duties. Any reasons for discharge other than political affiliation should be clearly documented before the discharge is initiated. If performance or competency is doubted, there should be documentation to support that conclusion. The record should show how the transition team found the employee to be incompetent, as compared to the superior qualifications of the person’s replacement. Before employees are terminated for budgetary reasons, a financial plan should be available showing that decisions were made irrespective of the political affiliations of the affected employees.

6. It would be useful to compile a record of campaign promises and acknowledged areas of disagreement between the newly-elected official and the prior administration. This record will assist in substantiating the defense that a particular position involved duties for which political affiliation was an appropriate requirement to implement the public’s mandate.

7. Legal advice should be sought before any employment decisions are made by any individual who is given the authority to make those decisions, especially when the position change could be viewed as politically motivated.

8. Once in office, the newly-elected official should be encouraged to establish and follow a system for making all employment-related decision making as objectively as possible. This includes establishing and updating personnel policies and job descriptions and implementing all procedures necessary for ensuring conformance with those policies. Job descriptions should be detailed and reflect the policymaking or confidential nature of a position and specifically designate whether that position is considered policymaking or confidential.

Ice Miller LLP serves as counsel to the Association of Indiana Counties. For further information on this topic, please contact Michael A. Blickman at Michael.Blickman@icemiller.com or (317) 236-2298 or Germaine Winnick Willett at Germaine.Willett@icemiller.com or (317) 236-5993.
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