

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

IN RE: WILLIAM "BILL" PATTERSON and ) OEIG Case #18-01651  
THOMAS BENNER )

PUBLICATION OF REDACTED VERSION OF OEIG FINAL REPORT

Below is the redacted final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and "any other information it believes should not be made public." 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused and others uninvolved. To balance these interests, the Commission may redact certain information contained in this report. Additionally, the Commission redacts certain information that relates to allegations against a person who was found not to have committed a violation. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report's factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor's Office of Executive Inspector General ("OEIG") and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, and William "Bill" Patterson and Thomas Benner's last known address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

## OEIG SUMMARY REPORT

### I. ALLEGATIONS

Between August 7 and October 5, 2018, the Office of Executive Inspector General (OEIG) received five complaints relating to Illinois Department of Natural Resources' (IDNR) hire of [Family Member] as a State Mine Inspector in 2018.<sup>1</sup> Some of the complaints alleged that [Family Member]'s [relative], State Mine Inspector-At-Large William (Bill) Patterson, manipulated the process that resulted in [Family Member]'s hire, including by changing the test applicants take, changing the job qualifications, and having IDNR staff [IDNR Employee 1] and [IDNR Employee 2] alter [Family Member]'s application. [The information in this sentence is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this sentence pursuant to 5 ILCS 430/20-52(a)]. The investigation also examined whether Bill Patterson directly supervised [Family Member] after he was hired.

### II. BACKGROUND

State Mine Inspectors, who work in IDNR's Office of Mines and Minerals' (OMM) Mine Safety section, perform technical and safety inspections of mines. [Family Member] was hired as a State Mine Inspector in June 2018. [Family Member]'s [relative], Bill Patterson, is a State Mine Inspector-At-Large, who reported to then-Director of Mine Safety Enforcement [IDNR Employee 3] during the times relevant to the investigation. [IDNR Employee 3] reported to then-OMM Director Thomas Benner. [IDNR Employee 4] was [Identifying Information Redacted] during the time relevant to this investigation.<sup>2</sup>

At the time of [Family Member]'s hire, the IDNR Policy and Procedure Manual had a conflict of interest policy stating that employees "shall avoid any action, whether or not specifically prohibited [], which might reasonably create the appearance of or result in ... giving preferential treatment to any organization or person."<sup>3</sup> The IDNR Policy and Procedure Manual specifies that employees must disclose and report to their Office Director or Deputy Director any real or apparent conflicts of interest involving them, their spouse, or any member of their family residing with them.<sup>4</sup>

Additionally, IDNR's Employee Handbook prohibits employees from directly supervising a family member, as well as participating "in any employment decision regarding his/her family member."<sup>5</sup> The Policy and Procedure Manual clarifies that participating in employment decisions include initial employment, work-related assignments, access to equipment, vehicles and facilities, promotion, salary or performance reviews, leave of absence requests, disciplinary action, and termination.<sup>6</sup>

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<sup>1</sup> All the complaints were combined within this case number 18-01651.

<sup>2</sup> As of approximately April 2019, [IDNR Employee 4] moved to another Human Resources position at IDNR. To avoid confusion, this report will refer to her as an [Identifying Information Redacted].

<sup>3</sup> IDNR Policy and Procedure Manual, Section 3D-4, *Conflict of Interest* (1997).

<sup>4</sup> IDNR Policy and Procedure Manual, Section 3D-4, *Conflict of Interest* (1997).

<sup>5</sup> IDNR Employee Handbook, Work Environment, *Nepotism* (2006).

<sup>6</sup> IDNR Policy and Procedure Manual, Section 3D-12, *Nepotism* (Revised 2000).

### III. INVESTIGATION

#### A. The Hiring Of [Family Member]

##### 1. Overview of the Certification Process for State Mine Inspectors

To be eligible for employment as a State Mine Inspector, candidates must first be certified through the State Mining Board, based on requirements in the Coal Mining Act.<sup>7</sup> This certification process is offered semi-annually and consists of a three-part written examination and an oral examination before State Mining Board members and/or State Mine Inspectors.<sup>8</sup> Candidates must score at least an 80% in order to pass the written examination.<sup>9</sup> In an OEIG interview, [IDNR Employee 1] told investigators that State Mine Inspectors administer and score the written test, and answer candidates' questions during testing.<sup>10</sup>

In an OEIG interview, [Identifying Information Redacted] [IDNR Employee 5]<sup>11</sup> said that candidates who are successfully certified through the State Mining Board may then complete a State Mine Inspector application, even if there are no vacancies for a State Mine Inspector position. She advised that those applications are kept on file until there is a vacancy and, once a vacancy is announced, IDNR will use those applications for any open State Mine Inspector positions.

According to [IDNR Employee 1], IDNR sends CMS all qualifying applications when a State Mine Inspector position is posted. The application grading done by CMS is a separate process from the certification process done through the State Mining Board. CMS grades the applications based on the applicant's education and experience as they relate to the position requirements. After fully grading the applications, CMS provides the agency with a list of eligible candidates. The agency must first select candidates who received an "A" grade from CMS, and may only select candidates who received a "B" grade after the "A" candidates have been exhausted.<sup>12</sup>

##### 2. Records Relating to [Family Member]'s Applications and Hire

Investigators obtained records from IDNR and CMS regarding [Family Member]'s applications for State Mine Inspector positions, and his ultimate hire in 2018.

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<sup>7</sup> The State Mining Board administers and interprets the Coal Mining Act and promulgates safety-related rules and regulations for the Illinois coal industry. See <https://www.dnr.illinois.gov/programs/Pages/StateMiningBoard.aspx> (last visited January 7, 2020).

<sup>8</sup> See <https://www.dnr.illinois.gov/mines/minesafetytraining/pages/coalminecertificationclassesexaminations.aspx> (last visited January 7, 2020).

<sup>9</sup> See 62 Ill. Adm. Code, section 230.10(h), available at <https://www.dnr.illinois.gov/adrules/documents/62-230.pdf> (last visited January 7, 2020).

<sup>10</sup> [IDNR Employee 1] was interviewed on November 28, 2018.

<sup>11</sup> [IDNR Employee 5] was interviewed on June 30, 2019.

<sup>12</sup> See CMS hiring process training PowerPoint presentation, available at [https://www2.illinois.gov/sites/iced/training/Documents/OVERVIEW\\_STATE\\_HIRING\\_PROCESS.pptx](https://www2.illinois.gov/sites/iced/training/Documents/OVERVIEW_STATE_HIRING_PROCESS.pptx); see also CMS Frequently Asked Questions, available at [https://www2.illinois.gov/sites/work/Pages/Exam\\_faq.aspx#qst12](https://www2.illinois.gov/sites/work/Pages/Exam_faq.aspx#qst12).

## **2017 Posting**

[Family Member]’s first application for the State Mine Inspector position is dated April 19, 2017 and was handwritten. Records reflect that [Family Member] took the State Mine Inspector examination the next day, on April 20, 2017. In a letter dated April 24, 2017, IDNR confirmed that [Family Member] passed the State Mine Inspector test with an “A” score and was thus certified as a State Mine Inspector.

On May 11, 2017, IDNR posted one vacancy for the position of State Mine Inspector in Sangamon County, Illinois. OMM Director Thomas Benner was listed as the point of contact for this posting. IDNR records indicate that [IDNR Employee 2] was hired to fill this vacancy on August 1, 2017.

## **2018 Postings**

Four vacancies for the State Mine Inspector position were announced in four separate postings on January 16, 2018, for positions in Washington, Saline, and Franklin Counties.<sup>13</sup> The two postings for Franklin County listed essentially the same minimum requirements as the 2017 posting, but added the following: “Prefers Illinois electrical certification.” Bill Patterson was listed as the point of contact for these 2018 postings.

OMM records indicate there were ten applicants for the January 16, 2018 postings for the State Mine Inspector position, including [Family Member]. [Family Member]’s initial application, dated January 19, 2018, was handwritten and listed three technical/professional licenses, one of which was Underground and Service Coal Mine Electrician.<sup>14</sup> OMM records indicate that on February 14, 2018, CMS issued a failing grade to nine of the State Mine Inspector applicants, including [Family Member].<sup>15</sup> [IDNR Employee 5] explained that the State Mine Inspector applications submitted to CMS were improperly completed and contained insufficient details. As a result, the applicants were advised by OMM to appeal their failing grades and resubmit their updated applications, if they still wanted to be considered for the positions. One State Mine Inspector applicant did not appeal his failing grade. [Family Member] and the other seven failed applicants appealed to CMS.

The OEIG reviewed [Family Member]’s revised application, dated February 24, 2018, along with a letter appealing his CMS failed grade. In addition to the three licenses listed on the January 19, 2018 application, four more technical/professional licenses were listed on the February 24, 2018 application, including Mine Manager and General Surface Supervisor. [Family Member]’s military employment, which had been listed in the Work History section of the prior application, was omitted in his typed February 24, 2018 application.

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<sup>13</sup> [IDNR Employee 5] advised that the two vacancies in Washington and Saline Counties were filled by incumbent State Mine Inspectors on February 16, 2018 via intra-agency transfer requests. According to [IDNR Employee 5], these vacancies were bargaining unit positions.

<sup>14</sup> [Family Member]’s April 19, 2017 application did not list any technical or professional licenses.

<sup>15</sup> The applicant who was not failed by CMS received a “B” grade and that applicant did not appeal this grade.

Following their appeals, six “A” rated applicants were referred to OMM as eligible for interviews, including [Family Member].<sup>16</sup> In an email dated May 3, 2018, [Identifying Information Redacted] [IDNR Employee 4] advised Bill Patterson that she had the list of State Mine Inspector applicants,<sup>17</sup> and asked what date he “would like to interview.” Bill Patterson responded about the day and listed four people who would conduct the interviews.<sup>18</sup> Mr. Benner was copied on both emails.

On May 14 and 17, 2018, OMM interviewed [Family Member] and four other “A” rated candidates.<sup>19</sup> Records reflect that the two top scoring candidates in the interviews were [Family Member] and [IDNR Employee 6].<sup>20</sup> Official offer letters from [IDNR Employee 4] to [Family Member] and [IDNR Employee 6] were dated June 6, 2018 and noted a start date of July 2, 2018.

### **3. Interviews of [Identifying Information Redacted] [IDNR Employee 2] and [Identifying Information Redacted] [IDNR Employee 1]**

The OEIG interviewed [Identifying Information Redacted] [IDNR Employee 2]<sup>21</sup> and [IDNR Employee 1] about the allegation that they were asked to alter [Family Member]’s application. [IDNR Employee 2] stated that he reported to Bill Patterson; [IDNR Employee 1] said she reported to Mr. Benner, and her duties include maintaining a database of information on testing for State Mine Inspectors.

[IDNR Employee 2] stated that [IDNR Employee 1] called him for help with [Family Member]’s application and told him that Bill Patterson asked her to review the application and make changes because it was rejected by CMS. [IDNR Employee 2] stated that [IDNR Employee 1] sought his help with mining terminology, and that they worked together to “tweak[] some of the sayings” and “enhance even more what [Family Member] did say” in the Work History section of the application, although he was unable to identify specific examples of how he helped [IDNR Employee 1] change the application.<sup>22</sup>

[IDNR Employee 2] stated that he has known that [Family Member] was Bill Patterson’s [relative] for about ten years, and he knew that [Family Member] was applying for the State Mine Inspector position before [IDNR Employee 1] reached out to him. [IDNR Employee 2] added that Bill Patterson went to IDNR’s Springfield office three or four times to get things straightened out after CMS rejected the applications.<sup>23</sup>

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<sup>16</sup> CMS “Candidate Exam History” printouts dated September 25 and 26, 2019 reflect that the remaining two applicants who appealed and were not listed as eligible had “B” grades.

<sup>17</sup> Although the email did not list the names of the applicants to be interviewed, [IDNR Employee 4] noted that the interviewees included “1 A vet [and] 5 A’s ...” The only A-rated veteran in the pool of applicants for the two Franklin county positions was [Family Member].

<sup>18</sup> In the email, Bill Patterson wrote that [IDNR Employee 7], [IDNR Employee 8], [IDNR Employee 9], and [IDNR Employee 10] would be conducting the interviews.

<sup>19</sup> The sixth individual who was on the eligible list was already employed with OMM as a State Mine Inspector, but was inadvertently submitted to CMS for grading, was issued a failing grade, appealed, and was listed by CMS as eligible to interview.

<sup>20</sup> In the investigation, the OEIG found another application for [Family Member], dated May 14, 2018, the same date as his OMM interview, which mirrored his February 24, 2018 application, except that handwritten duties for his previous employments were omitted.

<sup>21</sup> [IDNR Employee 2] was interviewed on October 25, 2018.

<sup>22</sup> [IDNR Employee 2] thought this occurred after the two-week window closed for the job posting, possibly May 2018.

<sup>23</sup> Bill Patterson is based out of IDNR’s Benton, Illinois office.

In her interview, [IDNR Employee 1] advised that after CMS rejected the applications, she mailed each applicant a letter about the appeal process and directed them to fully complete the application, and then received their appeal letters and updated applications. She stated that she was asked a specific question by an applicant, but she did not recall if that was [Family Member]. [IDNR Employee 1] said she reached out to [IDNR Employee 2] for assistance because she was unfamiliar with coal mining terminology. Later in the interview, [IDNR Employee 1] said that she and [IDNR Employee 2] did not have any specific conversations about [Family Member]’s application, but she recalled talking to [IDNR Employee 2] about [Family Member]’s and another applicant’s veteran’s status.<sup>24</sup> [IDNR Employee 1] recalled speaking with Bill Patterson about CMS failing the applicants, but said they did not specifically discuss [Family Member]’s application. [IDNR Employee 1] denied that Bill Patterson asked her to fix [Family Member]’s application.<sup>25</sup>

#### **4. Interviews of [IDNR Employee 9], [IDNR Employee 8], and [IDNR Employee 10]**

On March 26, 2019, OEIG investigators met separately with three of the four individuals who conducted the May 2018 interviews for the State Mine Inspector positions: [Identifying Information Redacted] [IDNR Employee 9], [Identifying Information Redacted] [IDNR Employee 8], and [Identifying Information Redacted] [IDNR Employee 10]. [IDNR Employee 9] and [IDNR Employee 8] stated that they did not receive any information about the applicants until just prior to the interviews, and [IDNR Employee 10] did not recall if he reviewed any State Mine Inspector applications prior to the interviews. All three interviewers stated that they did not know [Family Member] was Bill Patterson’s [relative] at the time of the interviews. They stated that during the interviews they individually scored the candidates’ responses to their questions, and at the end of the interviews they discussed their scores as a group and arrived at a consensus score.<sup>26</sup> [IDNR Employee 9], [IDNR Employee 8], and [IDNR Employee 10] all stated that they knew of Bill Patterson but denied any personal relationships with him or any pressure to score [Family Member] favorably. [IDNR Employee 8] recalled that [Family Member] was an excellent candidate and said that they hired the best candidates for the positions.

#### **5. Interview of [Identifying Information Redacted] [IDNR Employee 3]**

The OEIG interviewed [IDNR Employee 3] on March 26, 2019. [IDNR Employee 3] advised that he worked for IDNR from [dates of employment], and he reported to Mr. Benner most recently. [IDNR Employee 3] stated that he has known Bill Patterson since 1991 when he worked

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<sup>24</sup> Veterans who served for at least 6 months are afforded a preference in the State hiring process, if they meet certain other criteria. See 20 ILCS 415/8b.7. Although another applicant indicated on his application that he wished to claim a veteran’s preference, his Certificate of Release or Discharge from Active Duty form in his application paperwork indicates that he had a total of 5 months and 9 days of active service.

<sup>25</sup> The OEIG did not see any pertinent communications about [Family Member]’s application in its review of [IDNR Employee 1]’s emails from December 1, 2017 through July 10, 2018.

<sup>26</sup> This practice was inconsistent with CMS’s *Interview and Selection Criteria and Techniques* (rev. 2011), which recommended that interview panels “utilize individualized grading by each interviewer,” to avoid “the employment decision being questioned as a result of a ‘conspiracy’ in which all of the interviewers participated.” This approach has been reiterated in Governor’s Comprehensive Employment Plan for Agencies under the Jurisdiction of the Governor (Nov. 2019) which states that “[i]nterviewers should not seek consensus but may amend their initial scores based on further consideration”; if scores are changed, the interview notes should reflect the change and provide a detailed explanation supporting the change. The OEIG recommends that IDNR ensure that interviewers are aware of and comply with this guidance.

for Bill Patterson at a coal mine, and that he has known [Family Member] for years through Bill Patterson.

[IDNR Employee 3] described the situation surrounding [Family Member]’s hiring at IDNR as “the perfect nepotism storm.” [IDNR Employee 3] stated that he likely learned that [Family Member] was applying for a State Mine Inspector position in 2017, when [Family Member] took the State Mining Board examination, and that at the very beginning of the hiring process he warned Bill Patterson to “distance” himself. [IDNR Employee 3] opined that Bill Patterson did not do a good job at distancing himself from the process and gave an example of Bill Patterson inserting himself in the process by having IDNR HR get the applications corrected and resubmitted to CMS. [IDNR Employee 3] said that while Bill Patterson was involved, he did not play an “overwhelming” role in [Family Member]’s hiring. [IDNR Employee 3] said that because [Family Member] had an “A” grade, was a veteran, had an electrical certification, and had mine supervisory and rescue experience, he believed [Family Member] would get one of the vacant State Mine Inspector positions.

[IDNR Employee 3] stated he did not know why the point of contact was changed from Mr. Benner to Bill Patterson in the 2018 posting, but said that change would have been approved by Mr. Benner. [IDNR Employee 3] confirmed that they added the preference for Illinois electrical certification to the 2018 posting because they had wanted to add it to the minimum requirements of the job posting for 10 years. He also confirmed that Bill Patterson would have been a part of the conversation to add the preference. [IDNR Employee 3] further explained that for a long time OMM had only one State Mine Inspector who had the electrical certification, and if they lost that person they would not have any Inspectors with that certification even though a component of mine inspection is electrical. [IDNR Employee 3] stated that the posting was tailored for exactly what they wanted a State Mine Inspector to be, rather than to fit [Family Member], and asserted that [Family Member] was “everything we wanted in an inspector.”

## **6. Interview of then-OMM Director Thomas Benner**

The OEIG interviewed Mr. Benner on November 28, 2018. Mr. Benner advised that he had been the OMM Director since May 2017.<sup>27</sup> Mr. Benner stated that he has known [Family Member] since 2006, when [Family Member] worked at a mine where Mr. Benner was a manager. Mr. Benner stated that he has known Bill Patterson for 15 years and has known since 2006 that Bill Patterson and [Family Member] were [relatives].

Mr. Benner stated that in December 2017, Bill Patterson and [IDNR Employee 3] approached him about adding the electrical certification to the minimum qualifications section of the State Mine Inspector posting. He said they did so in the 2018 postings since inspection of electrical installations is a part of the duties of a State Mine Inspector and they had only one State Mine Inspector who held an electrical certification and that Inspector was approaching retirement.

Mr. Benner stated that before the State Mine Inspector position was posted, Bill Patterson told him that his [relative] intended to apply for the position. Mr. Benner said that he “knew this was an issue” when he heard that [Family Member] applied. Mr. Benner stated that he was

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<sup>27</sup> Mr. Benner retired from State employment on January 31, 2019.

“concerned” about it and thus spoke with [IDNR Employee 4], who told him that [Family Member]’s relationship to Bill Patterson did not disqualify him from applying, but they try to “avoid it.” Mr. Benner relayed that [IDNR Employee 4] told him that because [Family Member] was a veteran, there was no way to prevent him from applying for the job.

Mr. Benner stated that he told Bill Patterson to “stay completely out of this.” He said that he chose the interviewers for the May 2018 State Mine Inspector interviews and deliberately excluded Bill Patterson from serving as technical advisor for the interviews “to make sure there was no one there that had any connection to any of the people.” Mr. Benner stated that Bill Patterson’s only involvement in the hiring process was to receive applications and submit them to IDNR HR. Mr. Benner also stated that Bill Patterson went to IDNR’s Springfield office at least once when the applications were rejected and met with [IDNR Employee 4] to work through the problem, although he did not believe that Bill Patterson’s visit was specifically about [Family Member]’s application. Mr. Benner stated that he was unaware of any meetings between Bill Patterson and [IDNR Employee 1] about [Family Member]’s application, or of [IDNR Employee 1] and [IDNR Employee 2] discussing the application. Mr. Benner also contended that he knew of no pressure placed on HR or any other section within IDNR to get [Family Member] hired as a State Mine Inspector.

#### **7. Interview of [Identifying Information Redacted] [IDNR Employee 4]**

OEIG investigators interviewed [IDNR Employee 4] on January 17, 2019. [IDNR Employee 4] stated that she has worked in IDNR’s HR department since [dates and details of employment]. [IDNR Employee 4] said that [Identifying Information Redacted] [IDNR Employee 5] advised her of the plan to modify the 2018 posting to add the electrical certification preference. [IDNR Employee 4] stated that she did not discuss adding this preference with Bill Patterson or Mr. Benner.

When asked why Bill Patterson was the point of contact on the 2018 posting, [IDNR Employee 4] stated that applications were always directed to the supervisor for the position, based on the location of the county with the vacancy. State Mine Inspectors in the southern region of the State report to Bill Patterson while Inspectors in the north may report to Bill Patterson or Mr. Benner. She added that Bill Patterson collected the applications from the 2018 postings.

[IDNR Employee 4] described the application process for the 2018 State Mine Inspector positions as a “disaster.” She stated that CMS gave failing grades to this pool of applicants due to errors on their applications, so the applicants had to appeal their failing grades and revise their applications to be considered for the State Mine Inspector positions. [IDNR Employee 4] said that she had some contact with Bill Patterson about getting the application issues resolved, but he did not mention his [relative]’s application specifically. [IDNR Employee 4] stated that Bill Patterson questioned how long the process would take and asked about clearing up the application errors. [IDNR Employee 4] stated that [IDNR Employee 1] was generally responsible for contacting the applicants about their failed applications, but she recalled that Bill Patterson reached out to one applicant, who was not [Family Member].

[IDNR Employee 4] stated she did not learn that [Family Member] was Bill Patterson’s [relative] “until this process started,” which was when Mr. Benner approached her to discuss the issue. [IDNR Employee 4] relayed that she told Mr. Benner that since [Family Member] passed



the examination and was a veteran, he would most likely get the position, and noted in her interview that veterans have an “absolute preference” in Illinois. [IDNR Employee 4] said she did not discuss the hiring process with Bill Patterson. [IDNR Employee 4] denied any pressure being placed on IDNR HR to get [Family Member] hired.

**B. Pursuant to Section B, the OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance. The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this section pursuant to 5 ILCS 430/20-52(a).]**

**C. Bill Patterson’s Direct Supervision Of [Family Member]**

Finally, the OEIG examined whether, after [Family Member] was hired, Bill Patterson directly supervised him or otherwise took actions relating to his employment at IDNR.

**1. Documents Reviewed Relating to Supervision of [Family Member]**

OEIG investigators obtained an IDNR organizational chart displaying the hierarchy of supervision for the Mine Safety section, which indicated that it was last modified on September 19, 2018. The chart identified Bill Patterson as [Family Member]’s direct supervisor. Investigators also reviewed [Family Member]’s timesheets and saw that from July 2, 2018 through January 15, 2019, “Bill Patterson” was written on the line designated for the supervisor’s name. In addition, multiple leave requests for [Family Member] from July 2 to December 27, 2018 identified Bill Patterson as approving the requests, totaling at least 45 hours of approved leave.

Investigators also identified the following emails showing Bill Patterson’s involvement in [Family Member]’s supervision:

- From July 13, 2018 through January 22, 2019 [Family Member] emailed his weekly mine inspection reports to Bill Patterson, as well as to other OMM personnel.
- On June 6, 2018, the same date [Family Member] was offered the State Mine Inspector position, Bill Patterson sent an email, copying Mr. Benner, assigning vehicles to several State Mine Inspectors, including [Family Member].
- On July 5, 2018, an email was sent to Bill Patterson asking him to review an attached document which detailed the weekly travel schedule for [Family Member] and [IDNR Employee 6] for July 2018.

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Footnotes 28 through 35 have been redacted. The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this section pursuant to 5 ILCS 430/20-52(a).]

- In an email to the State Mine Inspectors dated August 27, 2018, Bill Patterson advised that he switched [Family Member]’s and [IDNR Employee 6]’s underground mine inspection site because of travel distances; Mr. Benner and [IDNR Employee 3] were copied on that email. Shortly after sending this email, Bill Patterson forwarded an email to the State Mine Inspectors with an attachment of their mine assignments for August 2018.

After Mr. Benner was interviewed as part of this investigation, Mr. Benner emailed Bill Patterson and [Family Member], on January 11, 2019, advising that as a result of [IDNR Employee 3]’s retirement,<sup>36</sup> [Family Member] would be reporting directly to Mr. Benner, who would sign off on [Family Member]’s timesheets.<sup>37</sup>

[Family Member]’s probationary performance report for July 1 through December 31, 2018, noted the handwritten name “[IDNR Employee 3]” on the supervisor’s signature line, dated November 26, 2018.

## **2. Interviews of [IDNR Employee 4], [IDNR Employee 3], and Mr. Benner Regarding [Family Member]’s Supervision**

[IDNR Employee 4] said that around June 2018, when IDNR was getting ready to offer candidates the State Mine Inspector position, she approached Mr. Benner about the issue of [Family Member] not being able to report to Bill Patterson. [IDNR Employee 4] said that [Family Member] was supposed to report to [IDNR Employee 3] so as not to violate IDNR’s nepotism policy, but she was unsure if this was documented in writing. [IDNR Employee 4] acknowledged that the OMM organizational chart indicates that [Family Member] reports directly to his [relative], but said that that is only “on paper.” [IDNR Employee 4] stated that she assumed that it was understood that tasks such as completing [Family Member]’s performance evaluations would not be done by Bill Patterson. [IDNR Employee 4] stated she never spoke with Bill

Patterson about his [relative]’s supervision, and that she is unaware if [Family Member] actually was reporting to Bill Patterson.

In his interview, [IDNR Employee 3] recalled suggesting to Mr. Benner to have [Family Member] report directly to him, but said that never happened and [Family Member] reported directly to his [relative]. [IDNR Employee 3] stated that he completed one of [Family Member]’s evaluations, but daily assignments, timesheet approvals, and other routine employment tasks were managed by Bill Patterson.

After reviewing the September 2018 organizational chart, Mr. Benner confirmed that [Family Member] reported directly to Bill Patterson and that this reporting structure violated the IDNR policy on nepotism. Mr. Benner stated that due to his concerns about the reporting arrangement, he asked [IDNR Employee 3] to evaluate [Family Member] for his probationary performance report. He also mentioned that [IDNR Employee 3] reviewed the State Mine Inspectors’ inspection reports. Mr. Benner conceded, however, that he “underst[ood] the optics ... [and] the issues” of [Family Member] working as a State Mine Inspector and reporting to his [relative].

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<sup>36</sup> As noted above, [IDNR Employee 3] retired on December 31, 2018.

<sup>37</sup> However, beginning January 16, 2019, printed electronic timesheets noted “[IDNR Employee 11]” [Identifying Information Redacted] as [Family Member]’s supervisor.

#### **D. Interview Of Bill Patterson**

On June 6, 2019, OEIG investigators interviewed Bill Patterson. Bill Patterson advised that he has worked at IDNR since 1999; has been a State Mine Inspector-At-Large since 2012; is currently the only Inspector-At-Large; and supervises the State Mine Inspectors in Illinois, helping them interpret the regulations related to their jobs and for coal mining. Bill Patterson advised that since [IDNR Employee 3] and Mr. Benner retired, he reports to the Office of the IDNR Director.

Bill Patterson stated that he was aware that his [relative], [Family Member], was applying for the State Mine Inspector position and tried to dissuade him from doing so because [Family Member] was a supervisor in his job and made more money than he would as a State Mine Inspector. Bill Patterson stated that when [Family Member] told him of his intention to apply for the State Mine Inspector position, he did not notify anyone in his supervision because “nobody thought one thing about it.” Bill Patterson asserted that he did not think anything of [Family Member] applying for the State Mine Inspector position and reporting to him, and said that [Family Member] had “every right to apply.”

Bill Patterson advised that the written portion of the State Mine Inspector examination consists of between 150 and 175 computer-generated questions that are randomly chosen from a larger database of questions, and said that nothing was added or removed from the database for the testing for the most recent hires. Bill Patterson stated that it is routine for current State Mine Inspectors to be present during the testing, but denied that he was present during [Family Member]’s test, stating that other State Mine Inspectors proctored the test.

Bill Patterson stated that the idea to add the preference for an electrical certification to the 2018 posting did not come from him; he said that issue had been discussed by Mr. Benner and [IDNR Employee 3] for several years. Bill Patterson stated that it is important for a State Mine Inspector to have an electrical certification because it is a part of their job to inspect electrical connections. He denied that the preference was added to give [Family Member] an advantage in the hiring process.

Bill Patterson confirmed that his role for the 2018 State Mine Inspector postings was to act as the point of contact for questions and to receive applications. Bill Patterson said that as the point of contact, he received four applications, one of which belonged to [Family Member], and at the close of the application period he forwarded those four applications to the IDNR HR office. Bill Patterson stated that when applicants learned that CMS rejected their 2018 State Mine Inspector applications, applicants began calling him directly. Bill Patterson confirmed that he went to the IDNR headquarters in Springfield to get the problems sorted out. Bill Patterson denied that anyone advised him to stay out of the hiring process.

Bill Patterson denied that he completed [Family Member]’s application for him, helped him complete it, or asked [IDNR Employee 1] to review it and make changes to improve it. However, Bill Patterson stated that someone in HR told him that the problem with [Family Member]’s application was related to his duties in [the military], and that he understood that [IDNR Employee 1] told [Family Member] to leave [military deployment information] off his work history on the application. Bill Patterson said that he advised his [relative] to report his [military service].

Bill Patterson said that Mr. Benner asked him to review the interview questions in 2018, but he denied discussing the questions with [Family Member] or giving him a copy of them. He stated that he did not participate in the interview process as a technical advisor or otherwise take a role in the 2018 interview process. Bill Patterson also denied any involvement in the decision on [Family Member]’s salary.

Bill Patterson stated that after [Family Member] completed his initial training as a State Mine Inspector, he (Bill Patterson) advised him to contact him with questions or problems. He said that before Mr. Benner left, he (Bill Patterson) assigned [Family Member] the mines he should inspect, received his inspection reports, and signed off on his timesheets. Bill Patterson said he also assigned State Mine Inspectors their vehicles and cell phones. Bill Patterson said that since Mr. Benner’s retirement, [Family Member] has been supervised by [IDNR Employee 11], [Identifying Information Redacted], although he said that [Family Member] still contacts him (Bill Patterson) to let him know when he will not be in the office, such as for a sick day.

Bill Patterson stated that he was not familiar with IDNR’s policy against a family member directly supervising another immediate family member, and that he read a copy of the Governor’s Executive Order regarding nepotism for the first time on the morning of the OEIG interview.

### III. ANALYSIS

#### A. Bill Patterson’s Conflict Of Interest In [Family Member]’s Hiring

Effective July 1, 2019, CMS implemented policies to guard against conflicts of interest in the hiring process.<sup>38</sup> In their reasoning for implementing this policy, CMS noted that “A key component of an impartial hiring system is the disclosure of any potential conflicts of interest between candidates and the hiring panel members. ... Identifying a conflict is an agency function, not a determination to be made by the employee who may have a conflict.”<sup>39</sup> The policy then adds that once a conflict is identified, a determination should be made whether the conflicted employee should be *replaced* [emphasis added] in the hiring process.<sup>40</sup> While this policy postdates the allegations in this case, the underlying tenet that agencies have a duty to avoid conflicts of interest in State hiring is a longstanding principle.

The IDNR Policy and Procedure Manual mandates that employees “shall avoid any action, whether or not specifically prohibited [], which might reasonably create the appearance of or result in ... giving preferential treatment to any organization or person.”<sup>41</sup> Although the investigation did not uncover sufficient evidence to find that Bill Patterson improperly influenced the decision to hire [Family Member] or that he manipulated the State Mining Board examination or scoring, Bill Patterson was involved in the 2018 hiring process, which could have benefitted his [relative]. At minimum, therefore, Bill Patterson’s involvement created the appearance of giving preferential treatment to his [relative] in the hiring process.

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<sup>38</sup> This 2019 policy mandates that all personnel within an agency involved in the hiring process will be required to complete a Conflict of Interest Certification and Disclosure Form, certifying that they have no relationships with the applicants/interviewees.

<sup>39</sup> CMS Memorandum titled *Implementation of Conflict of Interest Certification and Disclosure Form*, dated June 27, 2019.

<sup>40</sup> *Id.*

<sup>41</sup> IDNR Policy and Procedure Manual, Section 3D-4, *Conflict of Interest* (1997).

The evidence obtained in the investigation showed that unlike in the 2017 hiring process, in which [Family Member] was an unsuccessful applicant, Bill Patterson was involved in various aspects of the 2018 hiring process that resulted in [Family Member]’s hire, and made no effort to recuse himself. In the 2018 hiring process, Bill Patterson served as the point of contact for the State Mine Inspector postings in Franklin County and thus was responsible for responding to questions from applicants, receiving applications, and forwarding those applications to IDNR HR.<sup>42</sup> Bill Patterson admitted that one of the applications he received and submitted was his [relative]’s and that after CMS rejected all of the 2018 applications, including his [relative]’s, he went to IDNR headquarters in Springfield in an attempt to get the applications corrected and resubmitted to CMS. Furthermore, Bill Patterson said that Mr. Benner asked him to review the interview questions and it was Bill Patterson who advised [IDNR Employee 4] on May 3, 2018 who would be conducting the interviews.

Bill Patterson also admitted to advising his [relative] on how to correct his rejected 2018 application by telling him to report his military employment but omit [information related to military service]. Investigators confirmed that after CMS rejected [Family Member]’s January 19, 2018 application, his military employment was removed from the Work History section of his February 24, 2018 and May 14, 2018 applications.

[Family Member]’s February 24, 2018 application also reflected other changes from his January 19, 2018 application, which made him a stronger candidate for the State Mine Inspector position, such as adding four technical/professional licenses, including Mine Manager and General

Surface Supervisor. [IDNR Employee 2] told investigators that he worked with [IDNR Employee 1] to “enhance” [Family Member]’s application, and he said [IDNR Employee 1] told him that Bill Patterson had given her the application and asked her to make changes. Although both [IDNR Employee 1] and Bill Patterson denied that [IDNR Employee 1] was asked to fix [Family Member]’s application, [IDNR Employee 1] did acknowledge that she asked [IDNR Employee 2] for assistance with an application but did not recall if the application was [Family Member]’s; she also acknowledged talking to [IDNR Employee 2] about [Family Member]’s veteran status.

Bill Patterson’s involvement in the hiring process in which his [relative] was an applicant at minimum reasonably created the appearance of giving preferential treatment to [Family Member]. Therefore, the OEIG finds that Bill Patterson’s involvement in the 2018 State Mine Inspector hiring process violated IDNR’s Policy and Procedure Manual, and this allegation is **FOUNDED**.<sup>43</sup>

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<sup>42</sup> Mr. Benner and [IDNR Employee 3] advised that Bill Patterson also was involved in the discussion to add a preference for applicants with an electrical certification to the 2018 State Mine Inspector postings, although everyone interviewed agreed that the electrical certification preference was discussed for years before [Family Member] applied, and was needed because there only one State Mine Inspector who was a certified electrician and was approaching retirement.

<sup>43</sup> The OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

In addition, former OMM Director Thomas Benner knew that Bill Patterson's [relative] was applying for the State Mine Inspector position, and failed to take adequate action to ensure that Bill Patterson was not involved in the hiring process. Although Mr. Benner excluded Bill Patterson from serving as an interviewer during the 2018 State Mine Inspector hiring process, he did not keep Bill Patterson from being involved in other areas that could have influenced the outcome of this hire.

For instance, Mr. Benner was aware that Bill Patterson, as the point of contact, received applications for this position and was responsible for submitting them to HR. Mr. Benner was also aware that Bill Patterson was working with HR at IDNR headquarters to address the problems with the applications after CMS rejected them. Moreover, according to Bill Patterson, Mr. Benner asked him to review the interview questions for this hire.

Mr. Benner should have recognized the conflict of interest inherent in Bill Patterson's involvement in the 2018 State Mine Inspector hiring process. Because he failed to take adequate steps to exclude Bill Patterson from the hiring process, and in fact, included him in the process, the allegation that he created the appearance of a conflict of interest in violation of the IDNR Policy and Procedure Manual is **FOUNDED**.

It is also disconcerting that [IDNR Employee 4], and potentially other HR staff, did not take further action to ensure that Bill Patterson was not involved in this hiring process, given the fact that the need for a conflict-free hiring process is far from novel, and her responsibility as [Identifying Information Redacted]. However, it is unclear in this case when in the hiring process she became aware that [Family Member] was Bill Patterson's [relative] and the extent to which Bill Patterson was involved. In addition, given the fact that the HR department is in a different location from Bill Patterson's office and this hiring process took place over four months, the OEIG is not making a finding with regard to any HR personnel. However, this hiring is an example of the need for conflict of interest forms (which subsequent to this hire are now required<sup>44</sup>) to be properly utilized by anyone involved in the hiring. Not only do these forms provide an avenue for recognizing a conflict, or appearance of a conflict, but this documentation can serve as an important tool and reminder to ensure personnel who have been deemed conflicted are not involved at any point, especially in a lengthy hiring process.

Thus the OEIG recommends that IDNR ensure that IDNR HR staff and all other staff involved in hiring are aware of their responsibility to address potential conflicts before the hiring process starts, and complete necessary Conflict of Interest Certification and Disclosure Forms.

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<sup>44</sup> Effective July 1, 2019, CMS implemented policies to guard against conflicts of interest in the hiring process. This 2019 policy mandates that all personnel within an agency involved in the hiring process will be required to complete a Conflict of Interest Certification and Disclosure Form, certifying that they have no relationships with the applicants/interviewees. In their reasoning for implementing this policy, CMS noted that "A key component of an impartial hiring system is the disclosure of any potential conflicts of interest between candidates and the hiring panel members. . . . Identifying a conflict is an agency function, not a determination to be made by the employee who may have a conflict." The policy then adds that once a conflict is identified, a determination should be made whether the conflicted employee should be *replaced* [emphasis added] in the hiring process. While this policy postdates the allegations in this case, the underlying tenet that agencies have a duty to avoid conflicts of interest in State hiring is a longstanding principle. See CMS Memorandum titled *Implementation of Conflict of Interest Certification and Disclosure Form*, dated June 27, 2019.

**B. [Pursuant to Footnote 43, the OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance. The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this section pursuant to 5 ILCS 430/20-52(a).]**

**C. Bill Patterson’s Direct Supervision Of [Family Member]**

Finally, the investigation revealed that from [Family Member]’s hire in July 2018 until at least January 2019, Bill Patterson directly supervised his [relative]. The IDNR Employee Handbook and Executive Order 2018-12 prohibit employees from being allowed to directly supervise a family member or relative.<sup>45</sup> Additionally, the IDNR Policy and Procedure Manual prohibits an employee from participating in an employment decision involving another family member, which includes making work assignments and granting access to equipment and vehicles.<sup>46</sup>

In an interview, Bill Patterson admitted to directly supervising his [relative] from the time of his hire to approximately January 2019. Specifically, Bill Patterson admitted to approving his [relative]’s timesheets, setting his mine inspections schedule, receiving his reports, and assigning him a vehicle and cell phone. Bill Patterson’s admission that he directly supervised his [relative] was also confirmed by reviewing the documents he mentioned, as well as the September 19, 2018 OMM organizational chart and various leave requests for [Family Member]. For these reasons, the allegation that Bill Patterson directly supervised his [relative], [Family Member], and participated in employment decisions pertaining to his [relative], in violation of the IDNR Employee Handbook, Policy and Procedure Manual, and Executive Order 2018-12, is **FOUNDED**.

The investigation further revealed that Mr. Benner was aware that Bill Patterson was directly supervising his [relative] yet took no action. [IDNR Employee 4] stated that when IDNR was preparing to offer [Family Member] the State Mine Inspector position, she told Mr. Benner that they must ensure that he would not report to Bill Patterson. [IDNR Employee 3] said that he suggested to Mr. Benner that [Family Member] report to him ([IDNR Employee 3]), but that did not happen. Mr. Benner admitted that [Family Member] reported directly to Bill Patterson and that such a reporting structure violated IDNR policy. He stated that based on his concerns about it he had [IDNR Employee 3] conduct [Family Member]’s initial evaluation; however, he did not act to ensure that Bill Patterson was not supervising [Family Member] in other routine day-to-day matters. For these reasons, the OEIG concludes that Mr. Benner violated provisions of the IDNR Employee Handbook, Policy and Procedure Manual, and Executive Order 2018-12 in allowing Bill Patterson to directly supervise his [relative] for approximately six months in 2018. This allegation is therefore **FOUNDED**.

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<sup>45</sup> IDNR Employee Handbook, *Work Environment-Nepotism* (2006); Executive Order 2018-12 (eff. Oct. 21, 2018).

<sup>46</sup> IDNR Policy and Procedure Manual, Section 3D-12, *Nepotism* (2000).

## V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **FOUNDED** – IDNR State Mine Inspector-At-Large Bill Patterson took actions which might reasonably create the appearance of giving preferential treatment to a person, in violation of the IDNR Policy and Procedure Manual, when he participated in the hiring process for positions for which his [relative], [Family Member], had applied.
- **FOUNDED** – Former IDNR Office of Mines and Minerals Director Thomas Benner took actions which might reasonably create the appearance of giving preferential treatment to a person, in violation of the IDNR Policy and Procedure Manual, when he permitted Bill Patterson to participate in the hiring process for positions for which his [relative] had applied.
- **[The information in this sentence is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this sentence pursuant 5 ILCS 430/20-52(a).]**
- **FOUNDED** – Bill Patterson directly supervised his [relative], [Family Member], in violation of the IDNR Employee Handbook and Executive Order 2018-12, and participated in [Family Member]’s employment decisions in violation of the IDNR Policy and Procedure Manual.
- **FOUNDED** – Mr. Benner allowed Bill Patterson to directly supervise his [relative], in violation of the IDNR Employee Handbook and Executive Order 2018-12, and allowed Bill Patterson to participate in [Family Member]’s employment decisions in violation of the IDNR Policy and Procedure Manual.

The OEIG recommends that IDNR take appropriate disciplinary action regarding Bill Patterson. Because Thomas Benner is no longer an IDNR employee, the OEIG recommends that a copy of this report be placed in his personnel file.

The OEIG also recommends that DNR take the following action:

- ensure that Bill Patterson does not directly supervise [Family Member];
- ensure employees in managerial positions understand the relevant conflict of interest and nepotism policies;
- ensure all personnel who participate in any part of the hiring process, including vetting applications, execute CMS’s Conflict of Interest Certification and Disclosure Form;
- ensure that HR staff understand the conflict of interest requirements in the hiring process and be responsible for removing, from the hiring process, anyone deemed to have a potential conflict; and
- ensure any IDNR employees conducting applicant interviews are aware of and comply with CMS guidance including directives on consensus scoring.



No further investigative action is needed and this case is considered closed.

Date: February 4, 2020

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