

Ethics Officer 101

2015 Ethics Officer Conference
March 6, 2015
Loyola University College of Law
Chicago, Illinois

EO Duties (Sec. 20-23)

- Liaison between agency (university or transit board) and the Executive Ethics Commission
- Review Statements of Economic Interest
- Provide guidance to officers and employees

Revolving Door, 2 IAC 1620.610

Statement from the Ethics Officers of the State agencies employing the employee in the last 12 months identifying:

- any contracts the prospective employer, or its parent or subsidiaries had with the State agencies in the last 12 months, the amounts of contracts.
- any regulatory or licensing decisions made by the State agencies in the last 12 months that applied to the prospective employer or its parent or subsidiary, whether the employee was involved in any regulatory, licensing or contracting decisions regarding the prospective employer or its parent or subsidiary within the last 12 months, and a description of involvement.

Revolving Door, cont.

- If the Ethics Officer is the employee seeking the determination or is unable for any reason to provide this statement, the EIG may consider a statement provided by another appropriate employee or officer.
- The statement from the ethics officer must be submitted to the EIG within 5 calendar days.

Revolving Door Exec. Order

- Per Executive Order 15-09, cannot:
 - negotiate for employment or compensation with lobbyist or lobbying entity, if registered to lobby employee's State agency.
 - For one year after separation of service accept compensation for lobbying any State agency.
- Also consider Ethics Act and Procurement Code revolving door prohibitions

Ex Parte Communications

- Not ex parte communications:
 - Publicly made statements in a public forum
 - Statements or questions regarding matters of procedure or practice
 - Intra-agency communications

Ex Parte Related to Rulemaking

- Written or oral communications
- During the rulemaking period (first notice)
- Imparts or requests “material information” regarding rules:
 - Can’t simply phrase the comment as a question to avoid ex parte:
 - Not statements or questions regarding procedure or practice
 - Reasonable person standard
- Communicated to the agency, head of the agency, or other agency employee

Ex Parte Related to Decision Making

- Regulatory, quasi-adjudicatory, investment and licensing decision communications
- Applies to specific, identified agencies
- Written or oral communications, imparts or requests material information
- Matter pending before or under consideration by the agency
 - Pending—normal means of officially placing issue before the agency, e.g. petition, complaint, adding to the agenda.
 - Under consideration—suggests that the agency is considering action before it is “officially” pending.

Handling Ex Parte Communications

- Employees must report them to their Ethics Officer within seven days
- For rulemaking EPC, EO reports all to the EEC within seven days and makes them part of the record
- For decision-making EPC, EO reports to EEC only EPCs from non-interested parties, and makes them part of the record

Statements of Economic Interest

- EOs to review SEIs and disclosure forms of: officers, senior employees, and contract monitors, before filed w/SoS
- Interest of spouse=interest of person making statement
- Filing deadline: May 1
Penalties:
 - \$15 for late filings up to 5/15
 - \$100/day after 5/15
 - After 5/31, forfeiture of office

Supplemental SEI Statements

- Executive Order 15-09
- Three additional questions (handout)
- Forward to EEC (not to SoS)
- Still required to file standard SEI and forward to ethics officer for review

Typical Questions

- “Senior employees”
- What does “review” mean?
- Gifts from family
- Deferred compensation, mutual funds
- Professional services (#3) v. other income (#6)
- “Constructively controlled”
- Close economic association
- Other unit of local government

Giving Advice

- EO should have the first crack at giving advice
- Call me for assistance
- Notifications of apparent conflicts of interest
- Difficult employees—you are not their lawyer

Can We Talk?

- As an ethics officer, how do you answer the question “Can I talk to you confidentially?” Is the information you receive/guidance you give under Section 20-23(3) protected from disclosure to others, including agency leadership, the OEIG, Attorney General, or law enforcement?
- Is the answer to the question different if you are an ethics officer who is not an attorney? If you are an attorney, do you violate the Rules of Professional Conduct if you disclose?
- Sec. 20-90. Confidentiality. (a) The identity of any individual providing information or reporting any possible or alleged misconduct to an Executive Inspector General or the Executive Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.
- Sec. 20-95. Exemptions. (a) Documents generated by an ethics officer under this Act, except Section 5-50 (ex parte communications), are exempt from the provisions of the Freedom of Information Act.

TO: Agency Directors and Ethics Officers
FROM: Chad D. Fornoff, Executive Director, Executive Ethics Commission
RE: Supplemental Statement of Economic Interest, Executive Order 15-09
DATE: February 27, 2015

Pursuant to Executive Order 15-09, the Executive Ethics Commission has created a supplemental statement of economic interest form for those employees who are required to file a statement of economic interest and who are subject to Executive Order 15-09. A copy of Executive Order 15-09 and the supplemental form are attached to this email.

The forms, printed on yellow paper, will be mailed to employees' home addresses during the first week of March. Note that these forms are a supplement to, and not a substitute for, the regular statement of economic interest distributed by the Secretary of State. Employees should complete and return both forms. The regular statement should be forwarded, as in past years, to the agency ethics officer for review prior to the May 1 filing deadline.

The yellow, supplemental form must be completed, signed and returned by May 1. It may be scanned and returned electronically to EEC.Statement@illinois.gov or by USPS or interoffice mail to the Executive Ethics Commission, 401. S. Spring, Wm. Stratton Bldg. Room 513, Springfield, Illinois 62706. We intend to consider mail postmarked on or before May 1 to be timely filed. Original signatures are not required and this form need not be forwarded to the agency ethics officer for review in advance of filing.

There will likely be a number of questions from employees about this supplemental filing. Please attempt to answer these as best you can. If you do not believe you can give proper guidance, please contact me and I'll be happy to work with you to get the correct answer. If it would be advantageous to create a frequently asked question (FAQ) and answer memo, I would be glad to do that, too.

Thank you in advance for your cooperation. It is my hope that this supplemental statement could be incorporated into a new and improved statement for 2016, thereby reducing any duplication and confusion.

Supplemental Statement of Interests

For officers and employees subject to the jurisdiction of the Illinois Governor per Executive Order 15-09

Executive Order 15-09, "Executive Order to Ensure Ethical and Responsive Government," requires certain officers and employees to disclose and file the following information with the Executive Ethics Commission on or before May 1 of each year. **If you are uncertain whether you should complete this form or are uncertain about how to answer the questions, please contact your agency's ethics officer.**

Instructions: Please answer the following questions concerning calendar year 2014. Attach additional sheets if necessary. Kindly return it by **May 1, 2015** to: Illinois Executive Ethics Commission, 401 S. Spring Street, Wm. Stratton Bldg. Room 513, Springfield, IL 62706 or email a scanned, signed copy to EEC.Statement@illinois.gov.

Name State Agency

Home Address

City, State, Zip Code

1. Did you, your spouse, or minor child have a financial interest of greater than 5% in any real property for which the State of Illinois is a tenant, lessor or has some other ownership or beneficial interest? (Do **not** include a primary personal residence.)

_____ Yes _____ No

If yes, give the address and describe the nature of your ownership interest: _____

2. Did you hold any non-governmental position with any business entity, non-profit organization, labor group, educational institution, or other entity of any type? (Include the positions even if you received no compensation.)

_____ Yes _____ No

If yes, identify the position and the amount of compensation, if any: _____

3. Were you a party to, or have a financial interest in, any litigation involving the State of Illinois or any entity with a relationship with the State of Illinois?

_____ Yes _____ No

If yes, identify the case name(s) and the court in which such case is or was pending: _____

(Signature)

(Date)

NOTE: Return the completed, signed form via mail to the Executive Ethics Commission, 401 S. Spring Street, Wm. Stratton Bldg. Room 513, Springfield, Illinois 62706 or email a scanned, signed copy to EEC.Statement@illinois.gov.