

Ethics Officer Responsibilities and Authority

2015 Fall Ethics Officer Conference
September 14, 2015
Abraham Lincoln Presidential Library
Springfield, Illinois

Designation as Ethics Officer

- Head of each agency or office appoints an ethics officer for the agency. 5 ILCS 430/20-23
- Designation is made in writing and sent to the EEC and appropriate OEIG. 2 IAC 1620.830
- One designation letter for all of the attendant boards, advisory committees, etc.

EO Duties (Sec. 20-23)

- Liaison between agency (university or transit board) and the Executive Ethics Commission and between the agency and the OEIG
- Review SEIs and disclosure forms
- Provide guidance to officers and employees in interpreting the Ethics Act

Jurisdictional Issues

- “The jurisdiction of the Commission is limited to matters arising under this Act, except as provided in subsection (d-5). 5 ILCS 430/20-5(d)
 - EO duty to advise employees is equally narrow
- “The jurisdiction of each Executive Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.” 5 ILCS 430/20-10(c)

Liaison to the EEC

- Invitations to conferences
- Invitations for a speaker
- EEC release of OEIG investigation reports
- Revolving door clarifications

Liaison with the OEIG

- Cooperate with investigations
 - Providing documents upon written request
 - Agency responses to summary reports
 - Status of discipline
- Revolving Door determinations

The Revolving Door

- Information about the agency's contracts, licensing and regulatory decisions related to the prospective employer in the previous year
- Information about the employee's involvement in these decisions
- Any other reason the employee should not be permitted to accept the employment

Revolving Door, cont.

- The statement from the ethics officer must be submitted to the EIG within 5 calendar days.
- 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. 2 IAC 1620.610(c)(6)

Revolving Door Exec. Order

- Executive Order 15-09, employee cannot:
 - While employed with State agency, 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 Procurement Code revolving door prohibition 30 ILCS 500/50-30

Gift Ban Executive Order

- EO 15-09 (for those subject to the EO)
- \$100 "catch-all" exception gone
- Food and refreshment exception limited
- EMM and travel exceptions require EO and MY approval

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:
 - 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

Giving Advice

- Guiding employees in EA interpretation
- EO should have the first crack at advising
- Advising H-List revolving door employees
- Call me for assistance
- Notify apparent conflicts of interest
- You are not their lawyer

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER VI: EXECUTIVE ETHICS COMMISSION
PART 1620 ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS
SECTION 1620.830 DESIGNATION OF ETHICS OFFICER

Section 1620.830 Designation of Ethics Officer

Each officer and the head of each State agency under the jurisdiction of the Executive Ethics Commission shall designate an ethics officer for the officer or State agency [5 ILCS 430/20-23].

- a) The designation of the ethics officer shall be in writing and shall be forwarded to the Executive Ethics Commission and to the appropriate Executive Inspector General.
- b) The Executive Ethics Commission and the appropriate Executive Inspector General shall be notified in writing of the ethics officer's name, business address, telephone number and e-mail address within 30 days after the appointment of a new ethics officer.

(Source: Amended at 34 Ill. Reg. 13108, effective August 27, 2010)

ON AGENCY LETTERHEAD

Date

Margaret A. Hickey
Acting Executive Inspector General
for the Agencies under the Governor
69 West Washington Street, #3400
Chicago, IL 60602

Chad Fornoff
Executive Director
Executive Ethics Commission
401 South Spring Street, Suite 513
Springfield, IL 62706

Dear Ms. Hickey and Mr. Fornoff:

Per the rules established by the Executive Ethics Commission (2 Ill. Adm. Code Sec. 1620.830), this is to inform you that (***name***) will be the Ethics Officer for the (***agency***). Her/His telephone number is (***---.---.----***), and his/her email address is (***____@____***). The effective date of this appointment is (***date***) and they replace the current ethics officer (***name***).

Sincerely,

(Signature of the Director of the Agency)

Director
(name of agency)

(5 ILCS 430/20-23)

Sec. 20-23. Ethics Officers. Each officer and the head of each State agency under the jurisdiction of the Executive Ethics Commission shall designate an Ethics Officer for the office or State agency. The board of each Regional Transit Board shall designate an Ethics Officer. Ethics Officers shall:

(1) act as liaisons between the State agency or Regional Transit Board and the appropriate Executive Inspector General and between the State agency or Regional Transit Board and the Executive Ethics Commission;

(2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Executive Ethics Commission.

(Source: P.A. 96-1528, eff. 7-1-11.)

(5 ILCS 420/3A-30)

Sec. 3A-30. Disclosure.

(a) Upon appointment to a board, commission, authority, or task force authorized or created by State law, a person must file with the Secretary of State a disclosure of all contracts the person or his or her spouse or immediate family members living with the person have with the State and all contracts between the State and any entity in which the person or his or her spouse or immediate family members living with the person have a majority financial interest.

(b) Violation of this Section is a business offense punishable by a fine of \$1,001.

(c) The Secretary of State must adopt rules for the implementation and administration of this Section. Disclosures filed under this Section are public records.

(Source: P.A. 93-615, eff. 11-19-03.)

Disclosure of Appointee Interest in State Contracts to be filed with the Secretary of State Secretary of State Index Department, Ethics Section



111 E. Monroe
Springfield, IL 62756
217-524-0309
217-524-0930 (fax)
www.cyberdriveillinois.com

Appointee's Name: _____			
Mailing Address: _____			
City, State, ZIP: _____			
Name and type of organization for which this disclosure is being filed: _____			
<input type="checkbox"/> Board <input type="checkbox"/> Commission <input type="checkbox"/> Authority <input type="checkbox"/> Task Force	<table border="1" style="margin: auto;"> <tr> <td style="padding: 5px;">Date of Appointment: _____</td> </tr> <tr> <td style="padding: 5px;">(This date must be completed.)</td> </tr> </table>	Date of Appointment: _____	(This date must be completed.)
Date of Appointment: _____			
(This date must be completed.)			

GENERAL DIRECTIONS

Pursuant to 5 ILCS 420/3A.30, upon appointment to a board, commission, authority or task force authorized or created by State law, a person must file with the Secretary of State a disclosure of all contracts the person, or his or her spouse or immediate family members living with the person, have with the State and all contracts between the State and any entity in which the person, or his or her spouse or immediate family members living with the person, have a majority financial interest.

List all contracts with the State of Illinois in effect on or after the date of appointment:
(If additional space is needed, please attach a supplemental listing.)

Name of individual or entity contracting with the State of Illinois:

Name of State agency or department contract is with:

VERIFICATION

"I declare that this disclosure statement (including any supplemental listing) has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement of any contracts that I am required to identify pursuant to the Illinois Governmental Ethics Act. I understand that the penalty for willfully filing a false or incomplete statement shall be a business offense punishable by a fine of \$1,001.

It is further understood that an unlawful conflict of interest may arise if, as an appointee, I, my spouse, or immediate family member living in my residence has or acquires a contract or has or acquires a direct pecuniary interest in a contract with the State that relates to the board, commission, authority or task force of which I am an appointee during and for one year following the conclusion of my term of office."

Signature of Appointee Making Statement

Date

(Source: Added at 29 Ill. Reg. 8908, effective June 10, 2005.)

Joint Committee on Administrative Rules**ADMINISTRATIVE CODE**

**TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER VI: EXECUTIVE ETHICS COMMISSION
PART 1620 ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS
SECTION 1620.300 CONDUCT OF INVESTIGATIONS**

Section 1620.300 Conduct of Investigations

- a) Policy and Procedures Manual
 - 1) All investigations by an Executive Inspector General or his or her employees (collectively known as EIG) shall be conducted in accordance with procedures contained within this Part and within a policy and procedures manual developed by the EIG and approved by the Executive Ethics Commission. Approval shall be based on compliance with the Act, this Part and other applicable law. A policy and procedures manual should give direction to EIG employees that supplement the requirements of the Act and this Part.
 - 2) The policy and procedures manual described in subsection (c) shall be submitted for approval to the Executive Ethics Commission within 90 days after July 1, 2008. Any future amendments to the policy and procedures manual shall be subject to the Commission's approval. An updated policy and procedures manual for each EIG shall be posted on the EEC website. Portions of the policy and procedures manual that may compromise the integrity of investigations or confidential investigative techniques may be redacted by the EEC after consultation with the appropriate EIG.
- b) Waiver of Policy and Procedures Manual Provisions
 - 1) Waiver by the Commission

Upon written petition by an Executive Inspector General and a finding that the waiver is, in the particular context, necessary to avoid compromising the integrity of an investigation, the Commission may grant a waiver of the subsection (c)(6) requirement that requests for documents or physical objects be in writing.
 - 2) Temporary Waiver by the Chair

The Chair of the Commission, or his or her designee, may likewise grant a waiver of the subsection (c)(6) requirement that requests for documents or physical objects be made in writing in response to an oral or written request by an EIG if the Chair or his or her designee finds that the waiver is, in the particular context, necessary to avoid compromising the integrity of an

investigation, and provided that, within 72 hours after the waiver, the Executive Inspector General files a written request to the Commission. A waiver granted by the Chair pursuant to this subsection (b)(2) may be withdrawn by the Chair at any time if he or she no longer reasonably believes that the waiver is necessary to avoid compromising the integrity of an investigation.

- c) The policy and procedures manual shall include, but not be limited to, the following:
- 1) An EIG shall accept case initiation forms from State of Illinois employees and the general public in accordance with Section 1620.320.
 - 2) An EIG shall not investigate allegations of violations of State or federal law or this Part made against an EIG (including his or her employees). An EIG shall not investigate allegations of violations of State or federal law or of this Part if an EIG (including his or her employees) could be reasonably deemed to be a wrongdoer or suspect. Instead, in such cases, the EIG shall promptly refer all such allegations to the EEC for consideration of appointment of a Special Executive Inspector General.
 - 3) Within 30 calendar days after receipt of a case initiation form as described in Section 1620.320, the EIG shall do one of 5 things:
 - A) Determine that no investigation is appropriate; or
 - B) Open an investigation file pursuant to Section 1620.330 and commence an investigation; or
 - C) Refer the case initiation form to the appropriate EIG, the Executive Ethics Commission or other appropriate body as described in Section 1620.340 and take no further action; or
 - D) Suspend the investigation pending review of the outcome of other proceedings; or
 - E) Refer the investigation to the Executive Ethics Commission for consideration of appointment of a Special Executive Inspector General.
 - 4) Each EIG shall disclose the opening of all investigation files, as described in Section 1620.330, in writing to the Executive Ethics Commission. The disclosure shall identify the affected office, agency or agencies, the date the investigation was opened, and the investigation's unique tracking number. Reports on all investigations opened in a calendar month shall be submitted to the Commission on or before the 15th day of the following month.
 - 5) All EIG requests for production of or viewing of documents or physical objects under office or agency control shall be made in writing; provided, however, that the Commission may exempt any EIG who functions wholly within a single office or agency from the application of this requirement

upon joint petition by the EIG and the affected office or agency. A written request for documents or physical objects shall state that the recipient of the request, should he or she believe that the release of the subject matter of the request might violate existing rights or protections under State or federal law, has the right to seek a determination from the Commission relative to such rights or protections, if desired. An EIG may take reasonable steps to seal or otherwise insure the integrity of the requested documents or physical objects pending the Commission's determination. If security concerns demand the removal of sealed documents or physical objects, the EIG shall issue a subpoena before removal. The Commission shall consider the applicability of the right or protection asserted and issue a determination within 5 business days; provided, however that where delay for such a period could place an investigation in jeopardy, an EIG may request expedited consideration. The recipient and Commission shall maintain confidentiality about the request so as to minimize any risk of compromising the investigation. The recipient may assert any existing rights or protections under State or federal law with respect to the request, and such assertions made in good faith do not constitute failure to cooperate in an investigation.

- 6) An EIG desiring to interview any State officer or employee who is the subject of an EIG investigation and whom the EIG, based on the information available at the time of the interview, reasonably believes likely faces discipline shall notify the interviewee whether the underlying investigation is criminal or administrative in nature. If the underlying investigation is criminal in nature, the interviewee shall be presented a form that outlines the interviewee's rights during the interview, including the right to the presence of an attorney, union representative or coworker uninvolved in the investigation. If the underlying investigation is administrative in nature, the interviewee shall be presented a form that outlines the interviewee's rights during the interview, including the right to presence of a union representative or coworker uninvolved in the investigation. In both criminal and administrative investigations, the interviewee shall sign the form, attesting only to the fact that the form was presented to the interviewee and he or she was given the opportunity to read it. All forms presented to interviewees shall be pre-approved by the Commission. If, at any point, an interview subject requests the presence of a person authorized by this subsection (c)(6), or an attorney, the interview shall be suspended and a new date and time set. Evidence obtained directly or indirectly in violation of this subsection (c) is not admissible in any proceeding before the Executive Ethics Commission.
- 7) No EIG shall infringe upon the right of employees or officers to seek advice from their agency ethics officer on the interpretation and implementation of the Act, or to seek advice from private legal counsel.
- 8) Conduct of Interview
 - A) Interviews shall be conducted in a businesslike manner. The investigator shall avoid any personality clashes, acts of undue familiarity, abuse, or use of profanity. The investigator shall treat all persons interviewed with respect and not unduly embarrass,

inconvenience, intimidate or degrade the interviewee.

- B) Any armed State employee present shall not use his or her firearms in any manner that might intimidate, unless he or she, or anyone else present in the room, is physically threatened.
 - C) Interviewees enjoy all rights in the course of an interview protected by the Constitution of the United States and federal and State law.
 - D) The duty to cooperate in investigations as provided at 5 ILCS 430/20-70 does not include restriction on those rights.
 - E) In the event that the subject of an interview believes that the investigator has operated in violation of this Part, or in violation of applicable law, he or she may file a written objection with the Commission, setting forth with specificity the nature of the alleged violation. Within 30 days after receiving the objection, the Commission shall issue a written finding either sustaining or overruling the objection, shall appoint a Special Executive Inspector General to discover more facts (by interviewing witnesses, etc.), or shall refer the issue to an appropriate law enforcement authority. If the Commission sustains the objection, it shall issue a copy of its finding to the EIG to whom the investigator reports, as well as make public a copy of its finding. Subjects of the complaint process described in this subsection (c)(8)(E) are entitled to due process of law.
- 9) State employees who are subjects of EIG interviews and whom the EIG, based on the information available at the time of the interview, reasonably believes likely faces discipline, shall be presented a form that outlines their rights during the interview. The form shall also clearly indicate that the interviewee has the right to refuse to consent to have the interview recorded and the right to stop the recording of the interview at any time and that refusing to consent to have the interview recorded or to stop the recording at any time shall not constitute failure to cooperate in the investigation or otherwise subject the interviewee to any discipline. The form shall also indicate that the interviewee may request at any time that the interview be recorded. If the interviewee requests at any time that the interview be recorded, the interviewer shall honor this request, stop the interview and immediately provide the employee a request to record form. Upon execution of a request to record form, the interview and all future interviews of the subject shall be recorded by mechanical, digital or other means. All forms and recordings shall be preserved, unedited, in the investigation file. Nothing in this subsection (c)(9) shall be construed to require the recording of interviews other than pursuant to an appropriately executed request of the interviewee. The interviewee shall sign the form, attesting only to the fact that the form was presented to the interviewee and he or she was given the opportunity to read it.
- 10) Upon completion of investigations, the EIG or his or her designee shall write a final report summarizing the background of the investigation, the

- allegations, investigative steps taken and conclusions drawn. The final report shall include a recommendation regarding appropriate action. An investigation is deemed completed for purposes of this Part when all processes of internal review of the investigation and of the final report have terminated.
- 11) The policy and procedures manual may contain additional policies or procedures not inconsistent with this Part, subject to Commission approval as outlined in subsection (a)(2).
- d) Any person may complain to the Commission, in writing, concerning an EIG's alleged violation of the Act or this Part. Upon receipt of a complaint, the Commission may notify the EIG and require him or her to provide information related to the investigation in order to determine whether any conduct has occurred that would require the Commission to appoint a Special Executive Inspector General pursuant to 5 ILCS 430/20-21. Under those circumstances, the Commission deems the EIG's disclosure of that information to the Commission to be "necessary" as provided at 5 ILCS 430/20-95(d).

(Source: Amended at 34 Ill. Reg. 13108, effective August 27, 2010)



Ethics Officer's Revolving Door Statement (RD-102)

(Please print or type)

Please provide the information requested in Section III below based on the agency's records and/or Ethics Officer's knowledge, not the employee's RD-101. Pursuant to Ill. Admin. Code Tit. 2, §1620.610(c)(6) (2012), this statement must be submitted to the OEIG within 5 calendar days of receiving notification (the RD-101 form) from the employee or former employee.

I. State Employee or Former State Employee's Information

Full name of state employee or former state employee* to whom employment or compensation offer has been made:

*"state employee" includes employees and former employees of the Regional Transportation Authority, the Chicago Transit Authority, Metra, and Pace.

State employee's or former state employee's start date with your agency:

State employee's or former state employee's end date or anticipated end date with your agency:

State employee's or former employee's job/working title with your agency:

Describe the state employee's or former state employee's job duties with your agency (please attach job description if available):

II. Ethics Officer's Information

Ethics Officer's name:

Ethics Officer's agency title:

Mailing street address:

City:

State:

Zip code:

Phone number:

Fax:

E-mail address:

Date you received notification (the completed RD-101 form) from the state employee or former state employee:

III. Prospective Employer's Information

Please provide the information requested below regarding the state employee's or former state employee's prospective employer. If the state employee or former state employee intends to be self-employed, please complete a separate RD-102 form for each prospective client that the state employee or former state employee has identified in his/her RD-101 form(s).

Name of prospective employer or, if state employee or former state employee will be self-employed, name of prospective client:

Names of any parent or subsidiaries of prospective employer or prospective client of which the Ethics Officer is aware:

1) Please list and describe any contracts, grants, purchase orders, invoices or change orders the prospective employer or prospective client, its parent, or its subsidiary was awarded by the employee's agency during the year prior to the state employee's termination of state employment, including amounts and dates. Use a separate sheet if necessary.

2) Please list any regulatory or licensing decisions the employee's agency has made that applied to the prospective employer or prospective client, its parent, or its subsidiary during the year prior to the state employee's termination of state employment. Use a separate sheet if necessary.

3) Please describe the involvement, if any, of the state employee or former state employee with contracts, grants, change orders, or regulatory or licensing processes at your agency during the year prior to the state employee's termination of state employment. Use a separate sheet if necessary.

4) Please indicate whether the state employee's or former state employee's position has been identified under Section 5 ILCS 430/5-45(c) of the State Officials and Employees Ethics Act as a position that may have the authority to participate personally and substantially in the award of state contracts, grants, or change orders or in licensing and regulatory decisions.

Yes No

5) Please state whether you, as Ethics Officer, have any information not previously disclosed that may be relevant to the OEIG's determination of whether the state employee or former state employee should be barred from accepting the employment or compensation offer:

Yes No

6) If you answered "Yes" to Question 5, please explain and include, if applicable, a description of any conflicts or other issues related to the employment or compensation offer that are of concern to you. Use a separate sheet if necessary.

Signature

Name (Please print or type)

Date:

IV. Instructions for Submission

You may send your completed form to the OEIG at any of the following:

oig.revolvingdoor@illinois.gov

OEIG

Attn: Revolving Door

69 W. Washington, Suite 3400

Chicago, IL 60602

312-814-5479 (Fax)

Joint Committee on Administrative Rules**ADMINISTRATIVE CODE**

**TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER VI: EXECUTIVE ETHICS COMMISSION
PART 1620 ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS
SECTION 1620.610 REVOLVING DOOR PROHIBITION**

Section 1620.610 Revolving Door Prohibition

- a) *Within 6 months after the effective date of PA 96-555 (August 18, 2009), each executive branch constitutional officer shall adopt a policy delineating which State positions under his or her jurisdiction and control, by the nature of their duties, may have the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions. These policies shall be filed with the Commission and appropriate Executive Inspector General. [5 ILCS 430/5-45(c)]*
- b) *No later than June 1, 2010, and annually thereafter, each Executive Inspector General shall report to the Commission his or her determination of any additional State positions under his or her jurisdiction, not otherwise subject to the policies required by Section 5-45(c) of the Act, that are nonetheless subject to the notification requirement of Section 5-45(f) due to their involvement in the award of State contracts or in regulatory or licensing decisions. [5 ILCS 430/5-45(d)]*
- c) *Any State employee in a position subject to the policies required by subsection 5-45(c) or a determination of Section 5-45(d) of the Act, but who does not fall within the prohibition of Section 5-45(h), who is offered non-State employment during State employment or within a period of one year immediately after termination of State employment shall, prior to accepting such non-State employment, notify the appropriate Executive Inspector General. [5 ILCS 430/5-45(f)] The employee's notification to the appropriate Executive Inspector General must include:*
- 1) the employee's name;
 - 2) a description of the positions the employee held in State government in the last 12 months, including the title, responsibilities, and employing State agency or agencies;
 - 3) the title, description and responsibilities of the prospective employment position;
 - 4) the name, description, ownership, corporate structure including its parent and any subsidiaries, and contact information of the prospective employer;
 - 5) in the case of self-employment, that is, when the employee receives or

expects to receive remuneration directly from a client, the employee's initial submission shall include a list of known clients with which the employee or his/her business intends to contract. The employee must update this list for a period of one year after termination of State employment when he/she or his/her company intends to contract with a new client and submit the names of each additional client to both the former employee's Ethics Officer and the appropriate Inspector General.

- 6) a statement from the Ethics Officer or Officers of the State agency or agencies employing the employee in the last 12 months that identifies any contracts the prospective employer, or its parent or subsidiaries have had with the State agency or agencies in the last 12 months, the amounts of those contracts, any regulatory or licensing decisions made by the State agency or 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 if the employee was involved, a description of that involvement. If the Ethics Officer is the employee seeking the determination or is unable for any reason to provide this statement, the Executive Inspector General may consider a statement provided by another appropriate employee or officer. The statement from the ethics officer must be submitted to the appropriate Executive Inspector General within 5 calendar days after receiving notification from the employee.
- d) *Within 10 calendar days after receiving notification from an employee or officer in a position subject to policies required by subsection (a) of this Section, such Executive Inspector General shall make a determination as to whether the State employee is restricted from accepting such employment by Section 5-45(a) or (b) of the Act. Such a determination must be in writing, signed and dated by the Executive Inspector General, and delivered to the subject of the determination within 10 calendar days. [5 ILCS 430/5-45(f)]*
- e) *A copy of such a determination shall also be forwarded to the ultimate jurisdictional authority, the Attorney General and the Commission. [5 ILCS 430/5-45(g)] If an Executive Inspector General fails to make a determination within 10 calendar days after receiving a notification described in subsections (e) and (d), the EIG shall report this failure to the Attorney General and Commission immediately.*
- f) *An Executive Inspector General's determination may be appealed to the Commission by the person subject to the determination or the Attorney General no later than the 10th calendar day after the date of the determination. [5 ILCS 430/5-45(g)]*
 - 1) The appeal filed with the Commission shall contain a copy of the Executive Inspector General's written determination and a verified statement that explains the basis for arguing that the determination was in error. Copies of the appeal shall be sent to the relevant Executive Inspector General and shall also be sent to the subject of the determination, if filed by the Attorney General, or the Attorney General, if filed by the subject of the determination.
 - 2) Any objection to the appeal by the subject of the determination or by the

Attorney General shall be filed with the Commission within 5 calendar days after the filing, unless the Commission grants an extension of time.

- 3) *The Commission shall seek, accept and consider written public comments regarding a determination.* A copy of the appeal will be posted on the Commission's web site and be posted at the Commission's offices, with instructions on how written public comments may be forwarded to the Commission for consideration. *The Commission shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in Section 5-45(a) or (b) of the Act, based upon the totality of the participation by the former officer or employee in those decisions.* [5 ILCS 430/5-45(g)]
- 4) The Commission shall decide whether to uphold an Executive Inspector General's determination within 10 calendar days after receiving the appeal. Copies of the Commission's decision shall be sent to the former officer or employee, the Attorney General, the relevant Executive Inspector General, and the ultimate jurisdictional authority.
- g) *Any State employee in a position subject to the policies required by Section 5-45(c) or a determination of Section 5-45(d) of the Act, who is offered non-State employment during State employment or within a period of one year immediately after termination of State employment, but fails to provide the required notice set forth in subsection (c), shall be subject to a fine pursuant to Section 50-5(e) of the Act [5 ILCS 430/5-45(f)].*
- h) Any employee or officer who receives offers of non-State employment during State employment or within a period of one year immediately after termination of State employment and who is concerned about the effect of accepting the employment offer vis-à-vis the revolving door prohibition may seek a determination as provided in this Section.
- i) Any employee or officer who receives offers of non-State employment during State employment or within a period of one year immediately after termination of State employment and who is concerned about the effect of accepting the employment offer vis-à-vis the revolving door prohibition may seek a determination as provided in this Section.

(Source: Amended at 36 Ill. Reg. 13826, effective August 21, 2012)



EXECUTIVE ORDER

15-09

**EXECUTIVE ORDER TO ENSURE
ETHICAL AND RESPONSIVE GOVERNMENT**

WHEREAS, properly performing government business and maintaining the confidence of the people of Illinois require employees of the State of Illinois to adhere to the highest standards of honesty, integrity, and impartiality in their conduct and the performance of their official duties; and

WHEREAS, meeting this standard requires State Employees to avoid conflicts of interest in both appearance and practice; and

WHEREAS, the people of Illinois deserve to know that their state government is being conducted in an open and honest manner and in the public interest; and

WHEREAS, a higher code of ethical conduct is required to restore the public's trust in state government and its officers, employees, and appointees; and

WHEREAS, Section 2 of Article XIII of the Constitution of the State of Illinois recognizes the authority of any branch of government to establish and enforce ethical standards for that branch; and

WHEREAS, investigations by organizations such as the Better Government Association continue to identify misconduct by various government officials in the State of Illinois, such as, for example, the Better Government Association's recent investigation into the hiring practices at the Illinois Department of Transportation;

THEREFORE, I, Bruce Rauner, Governor of Illinois, pursuant to the executive authority vested in me by Section 8 of Article V of the Constitution of the State of Illinois, hereby order as follows:

I. DEFINITIONS

As used in this Executive Order:

"Commission" means the Executive Ethics Commission.

"Gift" has the meaning given to it in the State Officials and Employees Ethics Act (5 ILCS 430/1-5).

"Lobby" or "Lobbying" has the meaning given to it in the Lobbyist Registration Act (25 ILCS 170/2(e)).

"Lobbyist" has the meaning given to it in the Lobbyist Registration Act (25 ILCS 170/2(j)).

"Lobbying Entity" has the meaning given to it in the Lobbyist Registration Act (25 ILCS 170/2(k)).

"Prohibited Source" has the meaning given to it in the State Officials and Employees Ethics Act (5 ILCS 430/1-5).

"State Agency" means any officer, department, agency, board, commission, or authority of the Executive Branch of the State of Illinois.

"State Employee" means any employee, officer, or board member of any State Agency.

II. REVOLVING DOOR BAN

1. No State Employee, while employed by or serving as an appointee of a State Agency, shall negotiate for employment or other compensation with any person or entity that is registered as a Lobbyist or Lobbying Entity and has identified that State Agency on its then-current Lobbyist or Lobbying Entity registration filed with the Secretary of State.
2. No former State Employee, within one year after leaving his or her position with a State Agency, shall accept compensation from any person or entity for Lobbying any State Agency.
3. The restrictions of this Section II are in addition to, and not in place of, the restrictions set forth in applicable law, including the State Officials and Employees Ethics Act (5 ILCS 430/5) and the Illinois Procurement Code (30 ILCS 500/50-30).

III. GIFTS FROM PROHIBITED SOURCES: GIFT AND TRAVEL BAN

1. No State Employee, and no spouse of or immediate family member living with a State Employee, shall intentionally solicit or knowingly accept any Gift from any Prohibited Source that would be prohibited by Section 10-10 of the State Officials and Employees Ethics Act (5 ILCS 430/10-10) (the "statutory gift ban").
2. The exceptions to the statutory gift ban contained in Subsection (8) (food and refreshments of up to \$75 per day) and Subsection (12) (other gifts of up to \$100 per year) of Section 10-15 of such Act do not apply to State Employees. This provision is not intended to preclude a State Employee from accepting *de minimis* meals or refreshments served at a business meeting or reception attended by the State Employee in the course of his or her official duties, provided that the State Employee adheres to any rules issued by the Governor's Office of Management and Budget and his or her State Agency.
3. The exceptions to the statutory gift ban contained in Subsection (4) (educational missions) and Subsection (5) (travel expenses) of Section 10-15 of such Act do not apply to State Employees. This provision is not intended to preclude a Prohibited Source from paying for the cost of registration fees, travel, lodging, or meals, provided that, in addition to complying with all other applicable laws and regulations (including Section 1620.700 of the Illinois Administrative Code), (a) the Prohibited Source makes or arranges payment or reimbursement of such costs directly with the State Agency, and (b) the trip is approved in writing in advance by the Executive Director of the Commission.
4. Gifts, including but not limited to grants and monetary or in-kind donations, from any source to the State of Illinois are excluded from the statutory gift ban and this section.

IV. ECONOMIC INTEREST DISCLOSURE

1. Each State Employee that is required to file a statement of economic interest pursuant to Article 4A of the Illinois Governmental Ethics Act (5 ILCS 420/4A-101 et seq.) shall, in conjunction with such filing each year, also disclose the following information:
 - (a) The address and nature of interest in any real property in which the employee or spouse or minor child of the employee has a greater than 5% financial interest and in which the State of Illinois is a tenant, lessor, or otherwise has an ownership or other beneficial interest in the real property, excepting the primary personal residence of those individuals;
 - (b) Any non-governmental position held, whether compensated or not, with any business entity, non-profit organization, labor group, educational institution,

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or other entity of any type, together with the nature and amount of any compensation; and

- (c) Any litigation involving the State of Illinois or any entity with a relationship with the State of Illinois, where the employee is a party to, or has a financial interest in, that litigation.
2. The Commission shall prepare forms or amend existing forms to be used to report the information described in this Section IV and shall provide those forms or amended forms to each individual required to report such information on or before April 1 of each year. Such statement shall be filed by each such individual with the Commission on or before May 1 of each year. The Commission shall ensure that all statements filed pursuant to this Section IV are made readily available for public inspection.
3. Each State Employee required to submit a statement pursuant to this Section IV shall notify the Commission in writing and without delay of any material change in circumstance that might result in a change to his or her disclosures filed pursuant to this Section IV.

V. COOPERATION WITH SPECIAL MASTER

Every State Agency and State Employee is directed to fully cooperate with the Special Master appointed by the United States District Court of the Northern District of Illinois pursuant to an order in *Michael L. Shakman and Paul M. Lurie et al. v. The Democratic Organization of Cook County et al.* (No. 69 C 2145) to investigate hiring practices in State Agencies.

VI. EMPLOYMENT CONTRACTS

1. No State Agency shall enter into any employment contract with any person without prior review and approval by the Governor's Office of Management and Budget.
2. As soon as practicable, the Governor's Office of Management and Budget shall conduct a thorough review of the use of employment contracts by other agencies, boards, commissions, institutions, universities, authorities, and units of local government established under state law and other subdivisions of the State and shall recommend to the Governor legislation, regulations, rules, and policies to prevent the use of employment contracts for political, wasteful, or other improper purposes.

VII. OTHER PROVISIONS CONTINUE TO APPLY

This Executive Order does not alter the application of any other provision to State Employees.

VIII. PRIOR EXECUTIVE ORDERS

This Executive Order supersedes any contrary provision of any prior Executive Order.

IX. SAVINGS CLAUSE

Nothing in this Executive Order shall be construed to contravene any state or federal law. This Executive Order is intended only to improve the internal management of the Executive Branch of the State of Illinois and does not create any right to administrative or judicial review, or any other rights or benefits, substantive or procedural, enforceable at law or in equity by a party against the State of Illinois, its agencies or instrumentalities, its officers or employees, or any other person.

X. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

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XI. EFFECTIVE DATES

Section II of this Executive Order shall take effect on February 15, 2015, and the remainder of this Executive Order shall take effect immediately upon filing with the Secretary of State.



Bruce Rauner, Governor

Issued by Governor: January 13, 2015
Filed with Secretary of State: January 13, 2015

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(30 ILCS 500/50-30)

Sec. 50-30. Revolving door prohibition.

(a) Chief procurement officers, State purchasing officers, procurement compliance monitors, their designees whose principal duties are directly related to State procurement, and executive officers confirmed by the Senate are expressly prohibited for a period of 2 years after terminating an affected position from engaging in any procurement activity relating to the State agency most recently employing them in an affected position for a period of at least 6 months. The prohibition includes but is not limited to: lobbying the procurement process; specifying; bidding; proposing bid, proposal, or contract documents; on their own behalf or on behalf of any firm, partnership, association, or corporation. This subsection applies only to persons who terminate an affected position on or after January 15, 1999.

(b) In addition to any other provisions of this Code, employment of former State employees is subject to the State Officials and Employees Ethics Act.

(Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the effective date of changes made by P.A. 96-795).)

Executive Order 15-09 Gift Ban Exception Request Form

Agencies and employees subject to Executive Order 15-09 may not claim Gift Ban exceptions #4 (Educational Materials and Missions) or #5 (Travel Expenses to Discuss State Business) unless the exceptions comply with the provisions of 2 Ill. Admin. Code 1620.700, the Prohibited Source makes or arranges payment or reimbursement directly with the agency, and the trip is approved in advance by the Executive Director of the Executive Ethics Commission.

Agency seeking waiver

Prohibited source

Employee(s) traveling and date of travel

Travel-related expenses to be paid by the prohibited source and approximate value:

I confirm that the travel identified above:

- 1) has a close connection to the recipient officer's or employee's State employment or the mission of the agency or office;
- 2) predominately benefits the public and not the employee or officer;
- 3) is for travel in a style and manner in character with the conduct of State business; and
- 4) is approved by me as the agency's ethics officer in advance .

I also confirm that the Prohibited Source has made or arranged payment or reimbursement of such costs directly with the State Agency.

Additional information to explain why approval should be granted (attach additional sheets):

Ethics Officer signature

(Date)

Based upon the confirmation above, I approve this travel exception pursuant to Executive Order 15-09.

Executive Director, Executive Ethics Commission

(Date)

NOTE: Return a scanned, signed copy via email to Chad.Fornoff@illinois.gov.

(5 ILCS 100/5-165)

Sec. 5-165. Ex parte communications in rulemaking; special government agents.

(a) Notwithstanding any law to the contrary, this Section applies to ex parte communications made during the rulemaking process.

(b) "Ex parte communication" means any written or oral communication by any person during the rulemaking period that imparts or requests material information or makes a material argument regarding potential action concerning an agency's general, emergency, or peremptory rulemaking under this Act and that is communicated to that agency, the head of that agency, or any other employee of that agency. For purposes of this Section, the rulemaking period begins upon the commencement of the first notice period with respect to general rulemaking under Section 5-40, upon the filing of a notice of emergency rulemaking under Section 5-45, or upon the filing of a notice of rulemaking with respect to peremptory rulemaking under Section 5-50. "Ex parte communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as the format of public comments, the number of copies required, the manner of filing such comments, and the status of a rulemaking proceeding; and (iii) statements made by a State employee of that agency to the agency head or other employee of that agency.

(c) An ex parte communication received by any agency, agency head, or other agency employee shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication promptly be made a part of the record of the rulemaking proceeding. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, all written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, all responses made, the identity and job title of the person making each response, the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

(d) Failure to take certain actions under this Section may constitute a violation as provided in Section 5-50 of the State Officials and Employees Ethics Act.

(Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

(5 ILCS 430/5-50)

Sec. 5-50. Ex parte communications; special government agents.

(a) This Section applies to ex parte communications made to any agency listed in subsection (e).

(b) "Ex parte communication" means any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the agency. "Ex parte communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made by a State employee of the agency to the agency head or other employees of that agency.

(b-5) An ex parte communication received by an agency, agency head, or other agency employee from an interested party or his or her official representative or attorney shall promptly be memorialized and made a part of the record.

(c) An ex parte communication received by any agency, agency head, or other agency employee, other than an ex parte communication described in subsection (b-5), shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication be promptly made a part of the record. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, all written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, all responses made, the identity and job title of the person making each response, the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

(d) "Interested party" means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, investment, or licensing matter.

(e) This Section applies to the following agencies:

Executive Ethics Commission
Illinois Commerce Commission
Educational Labor Relations Board
State Board of Elections
Illinois Gaming Board
Health Facilities and Services Review Board
Illinois Workers' Compensation Commission
Illinois Labor Relations Board
Illinois Liquor Control Commission
Pollution Control Board
Property Tax Appeal Board
Illinois Racing Board
Illinois Purchased Care Review Board
Department of State Police Merit Board
Motor Vehicle Review Board
Prisoner Review Board
Civil Service Commission
Personnel Review Board for the Treasurer
Merit Commission for the Secretary of State
Merit Commission for the Office of the Comptroller
Court of Claims
Board of Review of the Department of Employment Security
Department of Insurance
Department of Professional Regulation and licensing boards
under the Department
Department of Public Health and licensing boards under the
Department
Office of Banks and Real Estate and licensing boards under
the Office
State Employees Retirement System Board of Trustees
Judges Retirement System Board of Trustees
General Assembly Retirement System Board of Trustees
Illinois Board of Investment
State Universities Retirement System Board of Trustees
Teachers Retirement System Officers Board of Trustees

(f) Any person who fails to (i) report an ex parte communication to an ethics officer, (ii) make information part of the record, or (iii) make a filing with the Executive Ethics Commission as required by this Section or as required by Section 5-165 of the Illinois Administrative Procedure Act violates this Act.

(Source: P.A. 95-331, eff. 8-21-07; 96-31, eff. 6-30-09.)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

**TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER VI: EXECUTIVE ETHICS COMMISSION
PART 1620 ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS
SECTION 1620.820 EX PARTE COMMUNICATIONS**

Section 1620.820 Ex Parte Communications

- a) Any State officer or employee who receives an ex parte communication from a non-interested party as excluded by Section 5-50(b-5) and Section 5-50(d) of the State Officials and Employee Ethics Act [5 ILCS 5-50(b-5) and (d)] or an ex parte communication from any person that imparts or requests material information or makes a material argument regarding an agency's rulemaking pursuant to Section 5-165 of the Illinois Administrative Procedure Act [5 ILCS 100/5-165] shall report this communication within 7 days to his or her agency's ethics officer.
- b) *Any ethics officer who receives a report of ex parte communications described in subsection (a) shall forward the report to the Commission within seven days. The report shall include:*
 - 1) *all written ex parte communications, including all written responses to the communications;*
 - 2) *a memorandum prepared by the ethics officer containing:*
 - A) *the nature and substance of all oral ex parte communications;*
 - B) *the identity and job title of the person to whom each communication was made;*
 - C) *all responses made and the identity and job title of the person making each response;*
 - D) *the identity of each person from whom the written or oral ex parte communication was received and the date of receipt;*
 - E) *the individual or entity represented by that person;*

- F) *any action the person requested or recommended; and*
 - G) *any other pertinent information.* [5 ILCS 430/5-50(c)]
- c) Communications regarding matters of practice and procedure as described in Section 10-60(d) of the Illinois Administrative Procedure Act [5 ILCS 100/10-60(d)] are not considered ex parte communications for the purposes of this Part.
- d) For reporting of ex parte communications under Section 5-165 of the IAPA, repetitive, bulk public comment (e.g., form letters, petitions) may be reported in the following manner.
- 1) Identification of the persons and or entity that authored the comment (if known), with address and phone number;
 - 2) Identification of any other entities in support of or opposition to the rulemaking and of the comment received by the agency;
 - 3) Provision of a sample of the public comment and, where different form letters are used, a sample of each;
 - 4) Submission of a tabulation of the number of persons supporting/opposing each type of public comment received by the agency; and
 - 5) Retention by the agency of all comments received.
- e) Reports received under this Section shall be considered by the Commission for possible action pursuant to Section 20-15(2) of the Act. Reports received by the Commission shall be maintained in accordance with the State Records Act [5 ILCS 160].