



2012 ETHICS REFERENCE

FOR STATE EMPLOYEES

SUBJECT TO THE AUTHORITY OF THE OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR

DATE OF ISSUE: FEBRUARY 2012

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Introduction/General Principles

Employees of the State of Illinois are subject to various laws, rules, and policies, some of which uniquely apply to those who work for the state. Certain of these laws, rules, and policies, including the State Officials and Employees Ethics Act (5 ILCS 430 et seq.), are intended to ensure that the functions of state government are conducted with fairness, honesty, and integrity. This, in part, is what it means to follow the principles of **ethics**.

The actions and conduct of state employees, appointees, and officials are essential to maintaining the public's trust in state government. Therefore, in addition to acting with honesty and integrity, state employees must use state-provided resources in the most productive and efficient way possible, and generally, only in support of the work of state government. In addition, state employees must avoid placing their personal or financial interests, or those of their family, friends, or associates in conflict with those of the state.

This reference is meant to provide an overview of a select number of ethics-related laws, rules, and policies that apply to many executive branch state employees. It is not meant to be an all-encompassing compilation of each ethics-related law or rule which applies to those employees. When state employees have a question about either the legality or ethics of a matter related to their state employment, they may discuss the matter with the ethics officer for their state agency or seek private legal counsel.

Ethics Officers

By law, each state agency, including state boards, commissions and public universities, is required to designate an ethics officer. Ethics officers:

- act as liaisons between their state agencies and the appropriate Executive Inspector General and the Executive Ethics Commission;
- review employees' statements of economic interests before they are filed with the Secretary of State (these statements will be discussed later in this reference); and
- provide guidance to state employees in the interpretation and implementation of the State Officials and Employees Ethics Act.

A list of ethics officers for state agencies and boards under the jurisdiction of the Office of Executive Inspector General for the Agencies of the Illinois Governor may be found via the Internet at: <http://www.inspectorgeneral.illinois.gov>.

Executive Ethics Commission (EEC)

Established in 2004, the Executive Ethics Commission, in conjunction with the Executive Inspectors General and the Attorney General, is responsible for the oversight of, compliance, implementation, and enforcement of the State Officials and Employees Ethics Act. The commission consists of nine commissioners, appointed on a bipartisan basis, and it exercises jurisdiction over all officers, appointees, and employees of state agencies under the six executive branch constitutional officers of the state, as well as the nine state public universities.

It also has jurisdiction over the four regional transit boards, i.e., the RTA, the CTA, Metra, and Pace.

The commission promulgates rules governing investigations of the Executive Inspectors General, prepares public information materials to facilitate compliance with ethics laws, provides guidance to ethics officers, reviews reports of activity from Executive Inspectors General and reports of ex parte communications from ethics officers, oversees employee ethics training, and conducts administrative hearings related to alleged violations of the Ethics Act. For further information about the Executive Ethics Commission, visit its Web site at: <http://www2.illinois.gov/eec>.

Office of Executive Inspector General (OEIG)

Established in 2003, the OEIG is an independent state agency. Its primary function is to investigate fraud, abuse, and violations of laws, rules, and policies in governmental entities. The OEIG investigates allegations of misconduct by the employees, appointees, and elected officials under its jurisdiction. The OEIG also has responsibility for investigating alleged violations by those doing business with entities under its jurisdiction.

The OEIG's jurisdiction includes:

- the Office of the Governor;
- the Office of the Lieutenant Governor;
- the regional transit boards (i.e., RTA, CTA, Metra, and Pace)
- the state public universities; and
- all state agencies and departments of the executive branch of state government, except for those agencies under the jurisdiction of other executive branch constitutional officers, specifically the Attorney General, the Comptroller, the Treasurer, and the Secretary of State (other Inspectors General have jurisdiction over the four executive branch constitutional officers not under the OEIG's jurisdiction, and the state legislature).

For additional information about the Office of Executive Inspector General for the Agencies of the Illinois Governor, visit its Web site at: <http://www.inspectorgeneral.illinois.gov>.

Ethics Training (Ethics Act, Section 5-10)

Under the Ethics Act, executive branch employees are among those who must, at least annually, complete ethics training under appropriate oversight. Additionally, by law, new employees must complete ethics training within 30 days of commencement of their employment. Because state employees are defined within the Ethics Act to include, "any appointee," appointees must also complete ethics training. **Elected** commissioners, trustees, directors, or board members of boards of a state agency, including any retirement system or

investment board subject to the Illinois Pension Code, are also state employees for purposes of the Ethics Act and must complete ethics training.

Failure to complete training when directed to do so exposes employees and appointees to disciplinary or other action by their state agencies or boards and/or the appropriate ultimate jurisdictional authority (i.e., the Governor, Lt. Governor or in the case of the state public universities, their boards of trustees). This may include action up to and including termination of employment or withdrawal of appointment. Additionally, the failure to complete ethics training and to submit a signed certification of completion of the training, in accordance with the training's instructions and the requirements of the Ethics Act, may be found to constitute a violation of the Ethics Act. This could result in possible administrative action by the Executive Ethics Commission, including its levy of a fine of up to \$5,000.

State agencies provide instructions to their employees concerning when and how to participate in ethics training as required by the Ethics Act.

Official Misconduct, Bribery, and Solicitation Misconduct (Criminal Code of 1961 (720 ILCS 5/33 et seq.))

Public officers or employees commit misconduct when, in their official capacity, they:

- intentionally or recklessly fail to perform any mandatory duty as required by law;
- knowingly perform an act which they know they are forbidden by law to perform;
- perform an act in excess of their lawful authority with intent to obtain personal advantage for themselves or another; or
- solicit or knowingly accept for the performance of any act a fee or reward which they know is not authorized by law.

Public officers or employees convicted of violating any these provisions forfeit their office or employment. In addition, they commit a Class 3 felony.

For Example:

A state employee may be committing official misconduct if she approves a citizen's request for state financial aid, which the employee knows she does not have the authority to approve. Also, as an example, a state employee may be committing official misconduct if she uses a state vehicle for unauthorized purposes, such as for her personal use.

Among other circumstances, **bribery** occurs when state employees ask for or accept property or personal advantage, such as, but not limited to, money or free services, in exchange for taking or not taking (or influencing someone else to take or not take) an official act.

For Example:

It is unlawful for state employees to accept a personal loan, in exchange for making official decisions, such as the issuance of a professional license, the granting of a state contract extension, or hiring of a state employee.

If state employees or officials accept a bribe, they could face criminal charges and if convicted, they could go to jail. It is also a criminal violation of the law if state employees or officials fail to report a bribe to the Illinois State Police.

If state employees have regulatory authority over a person, such as responsibility to investigate, inspect, license, or enforce regulatory measures related to the person's business or activity, and they knowingly ask for or receive political campaign contributions from that person, they have committed **solicitation misconduct**. If convicted of solicitation misconduct, they will lose their state jobs.

Personnel Policies (Ethics Act, Section 5-5)

State employees are required to follow the personnel policies of their state agency, board, or commission. By law, these policies must include elements related to:

- work time requirements;
- documentation of time worked/time sheets;
- documentation for reimbursement for travel on official state business;
- compensation; and
- earning and accrual of state benefits for those eligible for benefits.

Time Sheets (Ethics Act, Section 5-5)

The law requires state agencies have policies, which require their employees and appointees to periodically submit time sheets documenting the time spent each day on official state business to the nearest quarter hour.

Conflicts of Interest

Many state employees have investments, business or personal relationships, second jobs, or even volunteer activities, each of which, has the potential to create a conflict of interest in relationship to their employment with the state.

A conflict of interest occurs when the interests of a state employee are in conflict with the interests of the state. This might occur, for example, when a decision or recommendation that a state employee makes, relative to his or her official position, either affects or is affected by his or her personal interests or those of a family member, friend, or associate.

For Example:

A state employee has a conflict of interest when she participates in a decision to award a contract for state business to a company owned by a friend. Another example of a conflict of interest occurs when an employee attempts to influence the decisions of a coworker in order to benefit the employee's own financial interests.

Official actions taken by a state employee, such as, but not limited to, the issuance of state financial aid, or approving a license application, or granting a contract, or hiring another state employee, should be in the best interests of the state.

Do What's Right!

Recommended Best Practice

In any instance where a state employee believes that he or she may have a conflict of interest with respect to his or her state employment, it is his or her responsibility to immediately take steps to appropriately disclose the conflict and take action to remedy it. Disclosure should be made in accordance with any applicable policies of the employee's state agency. In the absence of a relevant policy, disclosure should be made to the employee's supervisor and to the state agency's ethics officer. Every immediate effort must be made to either eliminate the conflict or to recuse the employee from any official business related to the conflict.

Any preexisting, potential, or real conflicts of interest should be disclosed to the state by state employees during their hiring/appointment process.

For Example:

A prospective appointee to a state board whose husband is employed by a law firm that provides legal services to the board should disclose that relationship to the appointing authority.

Additionally, it is unethical for state employees to use information made available to them as result of their official duties and which is not generally known to the public, to benefit themselves, their friends, their family, or associates. The use of such insider information to benefit themselves or another person is, for example, unlawful under the Illinois Procurement Code (30 ILCS 500/50-50).

For Example:

It would be unlawful for a state employee to provide confidential information about a competitive bidding process for a state contract to a friend whose business is participating in that same bidding process.

Prohibited Political Activities (Ethics Act, Section 5-15)

State employees must not intentionally perform any of the following activities during compensated time other than vacation, personal, or compensatory time off. Additionally, state employees may never engage in any of these activities by misappropriating state property and resources (such as state-provided telephones, cell phones, photocopiers, or computers) for the benefit of any campaign for elective office or any political organization:

- Prepare for, organize, or participate in any political meeting, political rally, political demonstration, or other political event

For example, state employees may not send an email to fellow workers during work hours encouraging them to attend a rally for a candidate for elective office. Nor may state employees use a state email account, at any time, to, for example, issue invitations to or advertise a political event to anyone.

- Solicit contributions, including but not limited to purchasing, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event

For example, it is unlawful for state employees to collect contributions to fund a political event by placing a “donations” canister on their desktops at work.

- Solicit, plan the solicitation of, or prepare any document or report regarding any thing of value intended as a campaign contribution
- Plan, conduct, or participate in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum question
- Survey or gather information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum question

For example, it is unlawful for state employees, during their workday, to call potential voters on behalf of a political party to find out whom they might vote for in an upcoming election.

- Assist at the polls on election day on behalf of any political organization, candidate for elective office, or for or against any referendum question
- Solicit votes on behalf of a candidate, political organization, or for or against any referendum question, or help in an effort to get voters to the polls
- Participate in a vote recount on behalf of a candidate or political organization
- Initiate, prepare, circulate, review, or file a petition on behalf of a candidate for elective office or for or against any referendum question
- Make a contribution on behalf of any candidate for elective office
- Prepare or review responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes
- Distribute, prepare for distribution, or mail campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question

For example, it is unlawful for state employees to use a state-owned photocopying machine to produce campaign flyers for a school board candidate.

- Campaign for an elective office or for or against any referendum question
- Manage or work on a campaign for elective office or for or against any referendum question

For example, it is unlawful for state employees to use state-provided telephones, even during an uncompensated lunch period or before or after their normal work hours, to work on someone's campaign for elective office.

- Serve as a delegate, alternate, or proxy to a political party convention

Lastly, a supervisor may not compel a state employee to perform political activities at any time.

Do What's Right!

Recommended Best Practice

State employees must not engage in political activities during the hours they work for the state or by misappropriating any state resource (such as phones, copiers, letterhead, fax machines, email accounts, etc.). In some instances, state agencies or state boards and commissions may have policies that more severely restrict the political activities of their employees and appointees, including those activities that may take place outside of the time which employees and appointees work for the state. If you are in doubt as to whether an activity or action may be prohibited by law or policy, you may ask your state agency's ethics officer for guidance.

Political Contributions on State Property (Ethics Act, Section 5-35)

As a state employee, you may not intentionally solicit, accept, offer, or make political campaign contributions on state property. These prohibitions also apply to public officials, state employees, candidates for elective office, lobbyists (i.e., persons required to be registered under the Lobbyist Registration Act), or any officers, employees, or agents of any political organization.

State property includes, for example, buildings or portions thereof that are owned or exclusively leased by the state.

Prohibited Offer or Promise (Ethics Act, Section 5-30)

State employees, appointees, or officials may not promise **anything of value** related to state government in consideration for a contribution to a political committee, political party or other entity that has as one of its purposes the financial support of a candidate for elective office.

In the context of a prohibited offer or promise related to a political contribution, **anything of value** includes, but is not limited to:

- positions in state government;
- promotions;
- salary increases;
- other employment benefits, including, but not limited to, modified compensation or benefit terms; compensated time off; or change of title, job duties, or location of office or employment. An employment benefit may also include favorable treatment in determining whether to bring any disciplinary or similar action or favorable treatment during the course of any disciplinary or similar action or other performance review;
- board or commission appointments;
- favorable treatment in any official or regulatory matter;
- the award of any public contract; and
- action or inaction on any legislative or regulatory matter.

For Example:

It is unlawful for a state employee, appointee, or official to offer an action by a state agency, or to offer someone a state job or to offer an appointment to a state board, or to offer the award of a contract, in exchange for a political campaign contribution.

Prohibited Public Service Announcements and Other Promotional Material (Ethics Act, Section 5-20)

What's New

The Ethics Act prohibits public service announcements or advertisements that are on behalf of any state administered program and contain the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly that are broadcast or aired on radio or television, printed in a commercial newspaper or commercial magazine, **or, effective June 16, 2011, displayed on a billboard or electronic message board at any time.**

Furthermore, the proper name or image of any executive branch constitutional officer or member of the General Assembly may not appear on any bumper stickers, commercial billboards, lapel pins or buttons, magnets, stickers and other similar promotional items that are not in furtherance of the person's official state duties or governmental and public functions, if designed, paid for, prepared, or distributed using public dollars.

Ban on Gifts from Prohibited Sources (Ethics Act, Sections 10-10, 10-15 and 10-30)

Generally, state employees must not ask for or accept anything of value (other than the compensation they may receive from the state) in relation to their positions with the state. Asking for or accepting a gift may be illegal under the Ethics Act, or prohibited by a state

agency's policies. Furthermore, anything of value, if offered to a state employee or official **in exchange for an official act**, may be considered a bribe.

Prohibited gifts include a variety of things, some of which might not ordinarily be thought of as gifts. The Ethics Act's definition of a gift encompasses most tangible or intangible items having monetary value including but not limited to tickets to sporting or cultural events, hospitality, gratuities, cash, food, drink, reimbursement of travel or lodging expense, and honoraria for speaking engagements. Product samples, software, books, and marketing trinkets such as pens, calculators or tools, are also gifts, which may be prohibited depending on their value and the circumstances under which they are offered.

The Ethics Act specifies that a state employee may not intentionally solicit (ask for) or accept a prohibited gift from certain individuals or entities that are defined by law as a "prohibited source". It also specifies that a state employee may not solicit or accept a gift in violation of any federal or state statute, rule, or regulation. It is also unlawful for a spouse of, or immediate family members living with state employees to solicit or accept a prohibited gift from a prohibited source. It is also unlawful for state employees to intentionally solicit or accept a prohibited gift from an agent of, a spouse of, or an immediate family member who is living with a prohibited source.

For Example:

A state employee's son, who lives with the employee, may not ordinarily accept a prohibited gift, such as tickets to a sporting event, from a business that is subject to a regulatory, licensing, or contract decision that the state employee makes as part of his or her state job. Furthermore, a state employee may not ordinarily accept a prohibited gift from the husband or wife of someone whose business is subject to a regulatory, licensing, or contract decision that the state employee makes.

In addition to restrictions placed on gifts by the Ethics Act, state agencies may have their own policies, which in some instances, may be more restrictive than those of the Ethics Act. It is advisable that state employees review their agencies' policies on asking for or accepting gifts.

Do What's Right!

Recommended Best Practice

In general, it is recommended that state employees simply decline anything of value offered to them (other than the compensation they receive from their state agencies) in relation to their state employment, unless it is allowable under the Ethics Act's gift ban, is allowable under their state agencies' policies, and is not offered in exchange for any official act.

The Ethics Act specifies a number of sources from which gifts are generally prohibited.

Prohibited sources include a person or entity that:

- seeks official action from a state employee or the employee's state agency or other employee directing the employee;

- does business or seeks to do business with a state employee, state agency, or other employee directing the employee;
- conducts activities that are regulated by a state employee, the state agency, or other employee directing the employee;
- has interests that may be substantially affected by the performance or non-performance of the official duties of a state employee;
- is a registered lobbyist under the Lobbyist Registration Act; or
- is an agent of, a spouse of, or an immediate family member who is living with a prohibited source.

Under the Ethics Act, there are a limited number of specific circumstances under which a state employee may lawfully accept certain items of value from a prohibited source, such as the reimbursement of travel expenses for a meeting to discuss state business when the situation meets specific criteria **and** when such expenses have been approved in advance by the employee's ethics officer.

The list of exceptions is limited to:

- opportunities, benefits, and services available to the general public on the same conditions;
- anything for which a state employee pays market value;
- a lawful contribution under the Election Code or the Ethics Act or activities associated with a fundraising event in support of a political organization or candidate;
- educational materials and missions (as further defined below *);
- travel expenses for a meeting to discuss state business (as further defined below **);
- a gift from a relative;
- anything provided on the basis of personal friendship, unless the employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the employee and not because of the personal friendship;
- food or drink that does not exceed \$75 per calendar day;
- food, drink, lodging, and transportation related to outside business or employment activities, if the benefits are customarily provided to others in similar circumstances and are not offered because of the recipient's official position;
- intra-governmental or inter-governmental gifts (e.g. gifts between agency employees or between government employees);
- bequests, inheritances, and other transfers at death; and
- any item or items from any one prohibited source during any calendar year that has a cumulative total value of less than \$100.

*Illinois Executive Ethics Commission Rule 1620.700 states that educational materials and missions are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; and are approved by the employee's ethics officer in advance of the mission or receipt of the materials. If advance approval is not practicable, the missions and materials shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

**Illinois Executive Ethics Commission Rule 1620.700 further states that travel expenses for a meeting to discuss state business are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; are for travel in a style and manner in character with the conduct of state business; and are approved by the employee's ethics officer in advance of the travel, if practicable. If advance approval is not practicable, the travel shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

Under the Ethics Act, if state employees **unintentionally** receive a prohibited gift from a prohibited source, they may correct the situation and not be in violation of the law if they promptly do any of the following:

- return the gift to the giver;
- give the gift to a not-for-profit organization, a 501(c)(3) organization; or
- give an amount of equal value to a not-for-profit organization, 501(c)(3) organization.

Any gift that is intended to improperly influence a state employee's official conduct must not be accepted. Such a gift may constitute a bribe under state or federal law. Questions a state employee may have related to gifts solicited or received as a state employee may be referred to a state agency's ethics officer.

[Revolving Door \(Non-State Employment\) Restrictions \(Ethics Act, Section 5-45\)](#)

The Ethics Act contains restrictions that may, under certain circumstances, affect whether you, as a state appointee, (or one of your family members) may lawfully accept employment, compensation, or fees from another person or entity after you end your state service. No former officer, member, or state employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of state employment, knowingly accept employment or receive compensation or fees for services from a person or entity if:

- the officer, member, or state employee, during the year immediately preceding termination of state employment, participated personally and substantially in the award of state contracts, or the issuance of state contract change orders, with a cumulative value of \$25,000 or more to the person or entity, or its parent or subsidiary; or
- the officer or state employee, during the year immediately preceding termination of state employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

[Employment Restrictions and Procedures that Apply to Employees or Appointees, Who Participate in Contract, Licensing, or Regulatory Decisions:](#)

Depending on your state appointment and its responsibilities, you may be required to notify the OEIG if you are offered non-state employment from certain persons or entities and to seek a determination from the OEIG regarding whether you may lawfully accept such an offer -- before your acceptance of the offer. Persons subject to these restrictions are often called “c-list” employees in reference to subsection (c) of Section 5-45 of the Ethics Act. Subsection (c) contains employment restrictions on those state employees and appointees whose positions have the authority to participate personally and substantially in state contracting, regulatory, or licensing decisions. The Ethics Act requires each executive branch constitutional officer to adopt a policy, which identifies these “c-list” positions.

If you are in a position that is subject to these employment restrictions (i.e., if your position is on the “c-list,”) you should be provided written notification that the restrictions apply to your position. Notification should be provided to you upon your hire, promotion, or transfer into a relevant position; and at the time your duties are changed in such a way as to qualify your position for the restrictions.

These “c-list” employment restrictions apply during a period of one year immediately after termination of state employees’ or appointees’ state employment or appointment. During that time period, state employees, appointees, and their spouses and immediate family members may not knowingly accept employment or receive compensation or fees for services from a person or entity if the state employees or appointees, during the year immediately preceding termination of state employment:

- participated personally and substantially in the award of a contract or contracts, or the issuance of change orders with a cumulative value of \$25,000 or more to the person or entity; or
- participated personally and substantially in a regulatory or licensing decision that directly applied to the person or entity.

Any employee or appointee in a position which has been identified as having this regulatory, licensing, or contracting authority and who is offered non-state employment during state employment/appointment or within a period of one year immediately after termination of state employment/appointment must, prior to accepting such non-state employment, notify the appropriate Executive Inspector General. Within 10 calendar days after receiving such notification, the Executive Inspector General must make a determination as to whether the state employee or appointee is restricted from accepting such employment. An Executive Inspector General’s determination may be appealed to the Executive Ethics Commission no later than 10 days after the date of determination.

[Additional Employment Restrictions and Procedures that are Independent of an Employee’s Duties:](#)

A limited number of state officers, employees, or appointees, in certain positions, are strictly prohibited from knowingly accepting employment or receiving compensation or fees for services from certain individuals or entities during a period of one year after the termination of their state positions. These restrictions apply **regardless of whether the state officers,**

employees, or appointees were involved in regulatory, licensing, or contract decisions.

Persons affected by these restrictions are commonly referred to as being on the “h-list,” in reference to subsection (h) of Section 5-45 of the Ethics Act, which contains these employment restrictions

These “h-list” restrictions apply to employment or compensation offers from a person or entity or its parent or subsidiary, that during the year immediately preceding termination of the officer, employee or appointee’s state position, was a party to a state contract or contracts with a cumulative value of \$25,000 or more involving the officer, member of the general assembly, or state employee's state agency, or was the subject of a regulatory or licensing decision involving the officer, member of the general assembly, or state employee's state agency. **These more absolute restrictions apply to:**

- **members of the general assembly or constitutional officers (such as the Governor);**
- **members of a commission or board created by the Illinois Constitution;**
- **persons whose appointments to office are subject to the advice and consent of the Senate;**
- **the head of a department, commission, board, division, bureau, authority, or other administrative unit within the government of the state;**
- **chief procurement officers, state purchasing officers, and their designees whose duties are directly related to state procurement; and**
- **chiefs of staff, deputy chiefs of staff, associate chiefs of staff, assistant chiefs of staff, and deputy governors.**

To reiterate, the employment restrictions on these “h-list” positions apply **regardless** of whether the officer, employee, or appointee participated personally and substantially in the award of the state contract or contracts or the making of the regulatory or licensing decision in question. Furthermore, **there is no process for seeking an exception to the employment restrictions on these positions.**

If you find yourself in a situation where you are offered employment or compensation by an individual or business that conducted official state business with you or your state board, you may discuss the matter with your state board’s ethics officer or private legal counsel to ensure that you comply with the law.

The Executive Ethics Commission has the authority to issue a fine to a state employee or appointee in an amount of up to three times the total annual compensation that would have been obtained in violation of the Ethics Act’s revolving door employment restrictions.

What's New

Revolving Door Prohibition (5 ILCS 430/5-45)

With respect to officers or employees of a regional transit board (RTB), an amendment has been made to the revolving door prohibition. As defined in the Ethics Act, no former officer, member, or state employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of state employment, knowingly accept employment or receive compensation or fees for services from a **person or entity** if the state employee, during the year immediately preceding termination of state employment, participated personally and substantially in the award of state contracts, or the issuance of state contract change orders, with a cumulative value of \$25,000 or more to the person or entity, or its parent or subsidiary.

The amendment provides an exception to officers or employees of a RTB, wherein the phrase “person or entity” does not include the following entities:

- the United States government;
- the State of Illinois;
- municipalities; such as cities, villages, or an incorporated town;
- units of local government; such as counties, townships or other special districts; and
- school districts.

Additional Appointee Restrictions (Ethics Act, Section 5-55 and Lobbyist Registration Act, 25 ILCS 170/3.1)

Appointees to state boards, commissions, authorities, and task forces have specific additional laws and rules that apply to them.

Registered Lobbyists (Lobbyist Registration Act, 25 ILCS 170/3.1):

A lobbyist is any person who communicates with an official of the executive or legislative branch of state government for the purpose of influencing executive, legislative, or administrative action. Registered lobbyists are those individuals who meet certain criteria under the Lobbyist Registration Act and are therefore, required to register with the Illinois Secretary of State.

A person required to register as a lobbyist may not serve on a state board, commission, authority, or task force authorized or created by state law or by executive order of the Governor if the lobbyist is engaged by nature of a client’s business in the same subject area of the board and commission. Exceptions to this prohibition are limited to instances where the lobbyist serves:

- in an elective public office, whether elected or appointed to fill a vacancy; or

- on an advisory body that makes nonbinding recommendations to an agency of state government, but does not make binding recommendations or determinations or take any other substantive action.

Any registered lobbyist who serves on a board under one of these exceptions must not take part in any decision that may affect one of his or her clients.

Spouses and immediate family members who are living with a person required to register as a lobbyist also may not be appointed to a board unless they fall under one of the exceptions above.

[Holders of State Contracts \(Ethics Act, Section 5-55\):](#)

A person, his or her spouse, or any immediate family member living with that person, may not serve on a state board if:

- the person has more than a 7 ½ percent interest in a state contract; or
- the person, together with his or her spouse and immediate family members living with them, has more than a 15 percent interest in a state contract.

This ban does not apply if:

- the contract in question is an employment contract;
- the person, the spouse, or the immediate family member is serving in an elective public office; or
- the person, the spouse, or the immediate family member is serving on an advisory body that makes non-binding recommendations.

Any person who serves on a state board under one of these exceptions must not take part in any decision that may affect the contract in question.

Any individual appointed to a state board must disclose all contracts the individual has with the state.

[State Contract-Related Conflicts of Interest \(Governmental Ethics Act \(5 ILCS 420/3A-35\)\):](#)

An appointed member of a state board authorized or created by state law or executive order of the Governor, may not have or acquire a contract or a direct financial interest in a contract with the state that is related to the board on which he or she sits. This restriction applies during the appointee's term of office and for one year after the conclusion of the appointee's term. This restriction also applies to the appointee's spouse or an immediate family member of the appointee living in the appointee's residence.

Whistle Blower Protection (Ethics Act, Article 15)

State employees may be reluctant to report violations of the law, rules, or regulations out of fear that those affected by their report will do something to harm them or their careers. Such **retaliation is generally against the law.**

An officer, state employee, or state agency may not lawfully take any retaliatory action against a state employee for doing any of the following:

- disclosing or threatening to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member of the General Assembly, state agency, or other state employee that a state employee reasonably believes is in violation of a law, rule, or regulation;
- providing information or testifying about any violation of a law, rule, or regulation by any executive or legislative branch constitutional officer, member of the General Assembly, state employee, or state agency; or
- assisting or participating in a proceeding to enforce the State Officials and Employees Ethics Act.

Retaliatory action includes, for example, reprimanding, firing, demoting, transferring or suspending a state employee, changing the terms or conditions of the state employee's employment, or denying the state employee a promotion.

Whistle blower protections do not however prohibit a state employee from being disciplined for matters unrelated to the above-listed protected activities. For example, a state employee who discloses an unlawful act of another state employee may still be disciplined for failing to complete a required work assignment. Such discipline is allowable if it is demonstrated by clear and convincing evidence that the discipline (in this example, for failing to complete a work assignment) would have been imposed in the absence of the employee's disclosure of the unlawful act.

If a state employee retaliates against another state employee for reporting a violation of law or assisting in an investigation, then the individual taking the retaliatory action would be subject to disciplinary action up to and including discharge by his or her state agency, as well as potential administrative action by the Illinois Executive Ethics Commission for violating the Ethics Act. In addition, the employee subjected to the retaliatory action could file a lawsuit seeking compensation and other remedies as provided by law.

A list of potential remedies, including, but not limited to reinstatement of employment and back pay, may be found in the State Officials and Employees Ethics Act (5 ILCS 430/15-25). The state circuit courts have jurisdiction to hear cases brought under this section of the Ethics Act.

Reporting Violations of Law, Rule, Regulation, or Policy (Administrative Order #6, 2003)

To put an end to misconduct it is important that if you witness misconduct or have evidence of it, you report it to the proper authorities. As a state employee, it is your ethical duty to report

violations of laws, rules, or regulations by another state officer, employee, or other relating to state business.

To report a **non-emergency** violation of law, rule, or regulation, you should contact the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) via its toll-free Hotline at 866-814-1113. Questions and/or reports of alleged violations may also be submitted via the Internet at <http://www.inspectorgeneral.illinois.gov>. For those who require it, the OEIG may also be contacted toll-free via a telecommunications device for the disabled (TTD) at 888-261-2734.

Alleged violations may be reported to the OEIG anonymously. However, in many instances, investigations may be conducted more efficiently if investigators are provided the identity of the person who reported the matter so, if necessary, investigators may ask follow-up questions to obtain additional information.

In the event of an emergency situation requiring an immediate police response, one should contact the Illinois State Police or the county, municipal, or campus police agency that can provide the fastest response (for example, by dialing "911"). Examples of emergency situations include those that involve the illegal use or possession of a weapon, bodily injury or threat of bodily injury, or criminal sexual assault.

If anyone attempts to improperly influence the official actions of a state employee, particularly if there is an attempt by anyone to have a state employee act or fail to act in a manner that is unlawful or violates a state agency's policies, it is the state employee's responsibility to immediately report this matter to the appropriate authorities.

In certain instances, a state employee's failure to report a violation is itself a violation of the law, as is the case where a state employee fails to report a bribe (720 ILCS 5/33-2).

[Rights and Responsibilities During Investigations](#) (Ethics Act, Section 20-70, EEC rules, 2 Ill. Admin. Code Section 1620.300(c)(8), and Administrative Order #6, 2003)

State board employees and appointees who become involved in an investigation conducted by the Office of Executive Inspector General or the Illinois Attorney General have both rights and responsibilities with respect to these important functions. As a state board appointee, you have an obligation to cooperate in such investigations. This means, among other things, you must participate in interviews as requested, tell the truth, not withhold information, and respect the confidentiality of any investigation. It is also important that you know of your various rights with respect to investigations.

By law, every state employee must cooperate with and provide assistance to the Executive Inspector General and her or his staff in the performance of any investigation. In particular, state agencies and boards must, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, make their premises, equipment, personnel, books, records, and papers readily available to the Executive Inspector General.

In the course of an investigation, investigators may question any state officer, appointee, or employee, and any other person transacting business with a state agency or board. Investigators may also, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, inspect and copy any books, records, or papers in the possession of a state agency or board, including those made confidential by law. Investigators must take care to preserve the confidentiality of information contained in responses to questions or books, records, or papers that is made confidential by law.

Requests for production or viewing of documents or physical objects under state board control must be made in writing by an Executive Inspector General. If the recipient of such a request believes that the release of the subject matter of the request might violate existing rights under state or federal law, the recipient has the right to seek a determination from the Executive Ethics Commission relative to such rights or protections.

The Executive Inspector General may compel any state board employee to truthfully answer questions concerning any matter related to the performance of his or her official duties. If so compelled, no statement or other evidence therefrom may be used against an employee in any subsequent criminal prosecution, other than for perjury or contempt arising from such testimony. The refusal of any employee to answer questions if compelled to do so shall be cause for discipline, up to and including discharge. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements.

When instructed by an OEIG investigator, a state board employee who participates in an investigative interview should not inappropriately disclose any matter discussed during the interview, or even the existence of the investigation, except for example, when necessary to consult with private legal counsel.

As a state board employee, you have various additional rights during investigations, including those resulting from EEC rules (2 Ill. Admin. Code Section 1620.300), which specify:

- If investigators reasonably believe an employee who is the subject of the investigative interview will likely face discipline, the investigators must notify the employee whether the underlying investigation is criminal or administrative in nature.
- If the underlying investigation is **criminal** in nature, the subject interviewee must 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 subject interviewee must be presented a form that outlines the interviewee's rights during the interview, including **the right to the presence of a union representative, or coworker** uninvolved in the investigation.

In both criminal and administrative investigations, the subject interviewee must sign the above-mentioned 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.

Investigators may not infringe upon a state board employee's right to seek advice from their ethics officer on the interpretation and implementation of the Ethics Act, or to seek advice from private legal counsel.

The full text of the rules governing OEIG investigations may be found at the EEC's Web site: <http://www2.illinois.gov/eec>.

Ex Parte Communications

There are laws, which govern how information received by state agencies and their employees in relation to rulemaking and regulatory, quasi-adjudicatory, investment, procurement, and licensing procedures must be treated, especially when communications are received by state employees outside of a public forum. These laws are intended to make these procedures fair and to ensure that related communications received by the state and its employees are appropriately disclosed to others who are interested in the subject of the communications.

Most state employees are not affected by laws governing ex parte communications; however, if you are an employee of, or an appointee to one of the several entities listed below or are involved in procurement activities or formal rulemaking, it is especially important that you understand these requirements. If you have questions about ex parte communications, please seek appropriate counsel, such as, talking to your board's ethics officer.

There are similar, but different requirements related to ex parte communications that apply to (1) rulemaking under the Administrative Procedures Act and (2) regulatory, quasi-adjudicatory, investment, and licensing matters under the Ethics Act. In addition, the Executive Ethics Commission has established specific reporting requirements related to ex parte communications. Also, there are reporting requirements related to ex parte communications that apply to procurement matters under the Procurement Code. These various requirements are discussed below.

[Ex Parte Communications in Rulemaking \(Administrative Procedures Act, 5 ILCS 100, Section 5-165\):](#)

Under the Illinois Administrative Procedures Act, an ex parte communication is defined as any written or oral communication by any person, during the rulemaking period, that provides or requests information of a material nature or makes a material argument regarding potential action concerning an agency's (or board's) general, emergency, or peremptory rulemaking that is communicated to the head of the agency or an employee of the agency, and is:

- not made in a public forum;
- not a statement limited to matters of procedure and practice; and
- not a statement made by a state employee to fellow employees of the same board or agency.

An ex parte communication (i.e., one that is not made in a public forum, not limited to matters of procedure and practice, or not made by one employee to another of the same state agency or board) that is received by any agency or board, its head, or its employee must be immediately reported to the agency or board's ethics officer. The ethics officer must require that the communication be made a part of the record for the rulemaking proceeding and must promptly file the communication with the Executive Ethics Commission. **These requirements under the Illinois Administrative Procedures Act apply to all state agencies and boards.**

The intent of this section of the Administrative Procedures Act is to ensure that all parties who are interested in **administrative rules** under consideration by a state agency or board are made aware of communication that may occur outside of a public forum between the agency or board and other interested parties.

Ex Parte Communications in Regulatory, Quasi-Adjudicatory, Investment, and Licensing Matters (Ethics Act, Section 5-50):

Requirements that are different from (albeit seemingly similar to) those explained above, apply to ex parte communications involving only the following state 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
- 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 Dept. of Employment Security
- Department of Insurance
- Department of Professional Regulation and its licensing boards*
- Department of Public Health and its licensing boards
- Office of Banks and Real Estate and its licensing boards**
- 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 Board of Trustees

- * The Department of Professional Regulation is a division of the Department of Financial and Professional Regulation
- ** The Office of Banks and Real Estate is a division of the Department of Financial and Professional Regulation

Under the Ethics Act, an ex parte communication is defined as any written or oral communication by any person that imparts or requests information of a material nature or makes a material argument concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by a state agency or board, that is:

- not made in a public forum;
- not a statement limited to matters of procedure and practice; and
- not a statement made by a state employee to fellow employees of the same board or agency.

An ex parte communication received by an agency or board, its head or an agency or board employee/appointee from an interested party or its representative, must be promptly made a part of the related official record. "Interested party," means a person or entity whose rights, privileges, or interests are a subject of the matter under consideration by the agency or board.

An ex parte communication received by an agency or board, its head, or an agency or board employee/appointee from **other than** an interested party or its representative must be reported to the agency's or board's ethics officer. The ethics officer must promptly require the communication to become a part of the record and will promptly file the communication with the Executive Ethics Commission.

The intent of this section of the Ethics Act is to ensure that all parties who are interested in certain matters under consideration by the above-listed state agencies are made aware of related communications that may occur outside of a public forum between those state agencies and other interested parties.

[Applicable EEC Rules \(EEC Rules, 2 Ill. Admin. Code Section 1620.820\):](#)

The rules of the Executive Ethics Commission require that 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 Ethics Act 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 Procedures Act shall report this communication within 7 days to his or her agency's ethics officer. The full text of the EEC's rule may be found at its Web site: <http://www2.illinois.gov/eec>.

[Procurement Communications Reporting \(30 ILCS 500/50-39 and EEC rules 2 Ill. Admin. Code Section 1620.825\):](#)

Among its goals, the Illinois Procurement Code is intended to ensure that state purchases are made fairly and in the best interests of the state. The Procurement Code requires that employees be informed, via annual ethics training, of requirements to report certain communications received by state employees related to state procurement (purchasing) matters.

Under the Procurement Code, any written or oral communication received by a state employee that imparts or requests **material information** or makes a **material argument** about a **procurement matter**, must be reported to the state's Procurement Policy Board via its Web site: <http://pcrs.illinois.gov>. Communications must be reported as soon as practicable, but not more than 30 days after receipt.

A communication must be reported if it is (all of the following):

- 1) material;
- 2) regarding a potential action;
- 3) relating to a procurement matter; **and**
- 4) not otherwise excluded from reporting.

1) Materiality

Material information is information that is potentially relevant to determining a course of action, such as information pertaining to price, quantity, and terms of payment or performance.

A **material argument** is a communication that is made to influence a decision relating to a procurement matter. It does not include communications that are limited to general information about products, services, or industry best practices, or a response to a state employee's request for information to evaluate new products, trends, services, or technologies.

In determining whether a communication is material, state employees must consider:

- whether the information conveyed is new or already known; and
- the likelihood that the information would influence a pending procurement matter.

2) Regarding a potential action

A **potential action** is one that could affect the initiation, development, or outcome of a procurement matter.

3) Relating to a procurement matter

Procurement matters, unless otherwise excluded, are processes of procuring:

- goods, supplies, services, professional or artistic services, construction, leases of real property, capital improvements; or

- master contracts, contracts for financing through use of installment or lease-purchase agreements, renegotiated contracts, amendments to contracts, and change orders.

Procurement matters occur during the time period beginning when an agency has identified a need for procurement by initiating a procurement business case or equivalent document and continuing through completion of a final procurement action, including the resolution of any protests and the expiration of any protest or Procurement Policy Board review period.

Examples of procurement matters include activities such as:

- drafting, reviewing, or preparing specifications, plans, or requirements, including determining the method of source selection;
- drafting, reviewing, or preparing any invitations for bid, requests for proposals, requests for information, sole source procurement justifications, emergency procurement justifications, or selection information;
- evaluating bids, responses, or offers, other communications among an evaluation team and any technical advisors to the team relating to the evaluation of a procurement not yet awarded;
- letting or awarding a contract;
- resolving protests;
- determining inclusion on prequalification lists or prequalification in general;
- identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;
- allowing a conflict or subcontract pursuant to Section 50-60 of the Illinois Procurement Code; and
- approving change orders or the renewal or extension of an existing contract.

4) Exclusions to the reporting requirements

Exclusions to the reporting requirements include, for example:

- communications by a person publicly made in a public forum;
- communications regarding matters of procedure and practice, such as the format, the number of copies required, the manner of filing, and the status of a matter;
- communications made by a state employee to other employees of the same agency or to employees of the Executive Ethics Commission;
- communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract, which must be reported; and
- unsolicited communications providing general information about products, services or industry best practices, prior to those products or services becoming involved in a procurement matter.

Communications reports must include:

- the date, time and duration of each communication;
- the identity of each person from whom each communication was received, the individual or entity represented by that person, and any action requested or recommended by that person;
- the identity and job title of the person to whom each communication was made;
- the identity and job title of the person providing a response to each communication, if a response is made;
- a detailed summary of the points made by each person involved in the communication;
- the location(s) of all persons involved in the communication (including their phone numbers, if via telephone); and
- any other pertinent information.

For a more complete explanation of procurement communications reporting requirements, please visit the Procurement Policy Board's Web site (<http://ppb.illinois.gov>). Rules related to procurement communications reporting may also be found at the EEC's Web site: <http://www2.illinois.gov/eec>

If you have any questions concerning whether or not a communication is subject to these ex parte rules, you may seek the advice of your state board's ethics officer.

[Disclosure of Economic \(Financial\) Interests \(Illinois Governmental Ethics Act, 5 ILCS 420 et seq.\)](#)

Some state employees, because of their responsibilities, are required to file an annual statement of economic interests with the Secretary of State's Office (by May 1).

Generally, this requirement applies to compensated employees who:

- are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within state government, or who exercise similar authority with state government;
- have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the state in the amount of \$5,000 or more;
- have authority for the issuance or promulgation of rules and regulations within areas under the authority of the state;
- have authority for the approval of professional licenses;
- have responsibility for the financial inspection of regulated nongovernmental entities;
- adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration, or decision of any judicial or administrative proceeding within the authority of the state;
- have supervisory responsibility for 20 or more state employees;

- negotiate, assign, authorize, or grant naming rights or sponsorship rights regarding any property or asset of the state, whether real, personal, tangible or intangible; or
- have responsibility with respect to the procurement of goods and services.

It is the responsibility of the chief administrative officer of each state agency to annually certify to the Secretary of State the names and addresses of those employees who are required to file a statement. If you are subject to the requirement to file a statement of economic interests, on or before April 1 annually, the Secretary of State will notify you of the need to file a statement. This notification typically includes a form for filing the statement. Alternatively, the form may be obtained via the Secretary of State's Web site at:

http://www.cyberdriveillinois.com/publications/pdf_publications/i188.pdf

The information required for disclosure via a statement of economic interests includes, for example, but is not limited to, the following:

- the name and means of ownership that a state employee may have in any entity doing business in the state of Illinois, in which the ownership interest is in excess of \$5,000 (including, for example, real estate or stock, but not including a time deposit in a bank nor any debt instrument);
- the name and address of any professional organization in which the state employee is an officer, director, associate, partner, or proprietor from which the state employee derived income in excess of \$1,200 during the preceding calendar year;
- the identity (such as, the address or legal description) of any capital asset such as real estate from which a capital gain of \$5,000 or more was realized during the preceding year;
- the identity of any compensated lobbyist with whom the state employee maintains a close economic association; and
- the name of any entity doing business in the State of Illinois from which income in excess of \$1,200 was derived by the state employee during the preceding calendar year.

If state employees have questions about statements of economic interests, they may seek the advice of their state agencies' ethics officers.

Truthful Oral and Written Statements

It is vital to the integrity of state government that all oral and written statements made by state employees, in their official capacities as state employees, are made in what they believe to be an honest and truthful manner. This requirement applies to all means of communications and applies to documents, including, but not limited to:

- time sheets;
- employment or appointment applications;
- statements of economic interests;
- state agency, board, or commission rulings, orders, decisions, findings, etc.; and
- letters, emails, and reports.

Falsification of official documents or untruthful statements made in the conduct of state business are unethical, may violate state policies or law and may subject a state employee to administrative action up to and including fine and/or termination of state service, and in some instances may result in criminal prosecution.

State Agency Policies

It is important that state employees adhere to those applicable laws, rules, policies, or regulations that are unique to their state agencies. These policies **may** include for example:

- specific time reporting or other personnel-related rules, including, but not limited to, requirements for you to avoid being tardy, strict limitations on lunch and break periods, and directives to not misuse or abuse state resources by, for example, using state telephones, computers, vehicles, office supplies, or time for other than state business;
- restrictions concerning your solicitation or acceptance of gifts, which may be more stringent than the general gift ban contained within the Ethics Act;
- prohibitions on certain political activities, which may be more restrictive than those prohibitions contained within the Ethics Act;
- rules governing purchasing procedures;
- hiring practices;
- a code of conduct; and
- restrictions concerning conflicts of interest.

It is important that the business of state agencies is always conducted in accordance with all applicable laws, rules, policies, and regulations. Please be aware that many of these laws and rules, including the Ethics Act, are applicable to state employees even in instances where their employment is temporary, seasonal, intermittent, or performed under a personal services contract.

Penalties

Penalties for violations of ethics-related laws, rules, and policies by state employees are dependent upon the specific circumstances. Penalties may include administrative action up to and including termination of employment or appointment. In addition, the Executive Ethics Commission may levy administrative fines in the case of violations of the Ethics Act. Illegal acts, such as bribery, or official misconduct, may result in referrals to the appropriate authorities for criminal prosecution.

Disciplinary action under the State Officials and Employees Ethics Act against a person subject to the Ethics Act and the Personnel Code is under the jurisdiction of the Executive Ethics Commission. Any hearing to contest disciplinary action against a person subject to the Act pursuant to agreement between the Executive Inspector General and an ultimate jurisdictional authority will be conducted by the Executive Ethics Commission.

Ethics Questions or Concerns

State employees who have questions or concerns about a work-related ethics issue may contact their state agencies' ethics officers. Under the Ethics Act, ethics officers, among their other duties, serve to provide guidance to state employees, including appointees, in the interpretation and implementation of the Ethics Act, which guidance employees may in good faith rely upon.

Examples of the Ethical Obligations of State Employees

The following are examples of actions or situations concerning the various ethical obligations of state employees, appointees, and officials:

1. **Situation:** A state employee, who is subject to the requirement to file an annual Statement of Economic Interests, works part time as a licensed barber. He wonders if he is required to report income exceeding \$5,000 received from his part-time job as a barber.

Ethical Assessment: Those employees who must file Statements of Economic Interests are required, among other things, to report income exceeding \$5,000 received for professional services; however, the phrase "professional services" is defined to mean services rendered in the practice of law, accounting, engineering, medicine, architecture, dentistry, or clinical psychology. Therefore, income derived from working as a barber is not to be reported.

2. **Situation:** An investigation conducted by the Executive Inspector General found that a state employee violated a state agency policy. Based on the investigation, the employee was suspended by her state agency for five days. The state employee is aware that the Executive Ethics Commission has the authority to publicly release a summary report concerning the investigation and she wants to provide a statement that will also be made public.

Ethical Assessment: Prior to its public release of such summary reports, the Executive Ethics Commission permits respondents to provide a response that may be made public with the summary report.

3. **Situation:** A supervisor at a state agency is asked by one of her subordinates to approve a professional license application that was submitted to the agency by the supervisor's brother-in-law.

Ethical Assessment: It is a potential conflict of interest for the supervisor to take an official act that might benefit her brother-in-law. The supervisor should disclose the potential conflict to her state agency (by notifying her boss and the agency's ethics officer). To avoid any perception of misconduct, the supervisor could recuse herself from (not participate in) any decisions related to the brother-in-law's license application.

4. **Situation:** A state employee intentionally falsifies his daily starting and stopping times of employment on his time sheet.

Ethical Assessment: It is unethical to falsify any official document, such as a time sheet. Falsification of a time sheet violates state agency policy and may be a criminal violation depending upon the specific circumstances.

5. **Situation:** A state employee distributes campaign buttons promoting a candidate for elective office to her coworkers during the employees' break period.

Ethical Assessment: The State Officials and Employees Ethics Act prohibits this and certain other political activities from being intentionally performed during any compensated time other than vacation, personal, or compensatory time off. Because the employee is compensated for her break periods, it is unlawful for her to distribute political campaign buttons during that time.

6. **Situation:** A state employee agrees to speed up the processing of an individual's professional license application because the applicant is a friend of the employee.

Ethical Assessment: This situation represents a conflict of interest for the employee. It is unethical and most likely a violation of agency policy for a state employee to show favoritism to a friend, family member, or associate while performing official duties.

7. **Situation:** A citizen, who a state employee helped to obtain state services, offers the employee a \$25 gift card as a gesture of appreciation.

Ethical Assessment: Under the Ethics Act, a person or entity that does business or seeks to do business with a state employee or state agency is among those considered a prohibited source. Therefore, the employee may not accept a gift from a prohibited source unless one of the law's exceptions applies. In this instance, if this is the only gift offered by the citizen to the employee during the current year, the employee is not prohibited by the Ethics Act from accepting it because its value is less than \$100. However, an employee should never accept a gift in exchange for an official act and the acceptance of the gift must not violate any other law, regulation, or policy, some of which may be more restrictive than the Ethics Act's gift ban. Your state agency may have a policy which prohibits your acceptance of any gift related to your job.

8. **Situation:** A state employee tells his agency's procurement manager that he wants changes made to a request for proposals (RFP) that is to be issued by the state agency. The employee does so to ensure that a friend's business will be qualified to participate in the RFP.

Ethical Assessment: It is unethical, a conflict of interest, and possibly a violation of the law for a state employee to attempt to influence another state employee's official actions in order to benefit a family member, friend, or associate.

9. **Situation:** After the end of his state workday, but while still in his state office, a state employee accepts a donation from a coworker for a campaign fund for a candidate for elective office.

Ethical Assessment: The Ethics Act prohibits the intentional solicitation, offer, or acceptance of campaign contributions on state property, at any time. State property means any building or portion thereof, owned or leased exclusively by the state.

10. **Situation:** A state employee uses his state-provided computer to access pornographic images via the Internet.

Ethical Assessment: Intentionally accessing such material using state resources or state time is improper and in most instances is specifically prohibited by state agency policies. Violation of such policies will result in disciplinary action, up to and including, termination of state employment, and may, depending upon the circumstances, result in referral of the matter to appropriate authorities for possible criminal prosecution.

11. **Situation:** An employee who recently filed a complaint with the Office of Executive Inspector General is transferred to a less desirable job because his state agency has learned of the employee's complaint and believes it may prove embarrassing to the agency.

Ethical Assessment: State law prohibits state officials, employees, appointees, or agencies from taking retaliatory action against a state employee who discloses or threatens to disclose to a supervisor or public body misconduct by a state official, employee, appointee, or agency that the state employee reasonably believes is in violation of a law, rule, or regulation. Among other things, retaliatory action includes changing the terms or conditions of employment of a state employee.

12. **Situation:** A former state employee, who was previously notified that his state job was subject to revolving door restrictions, accepts a job offer from a company affected by the former employee's recent regulatory decision.

Ethical Assessment: No former state employee of the executive branch with regulatory or licensing authority may within a period of one year after termination of state employment knowingly accept employment, compensation, or fees from a person or entity if the state employee participated personally and substantially, during the year preceding termination of employment, in a licensing or regulatory decision that directly applies to the person or entity.

13. **Situation:** A state employee decides to use a state vehicle to transport one of his kids to a soccer game while he has the state vehicle garaged at his home on a temporary basis.

Ethical Assessment: Generally, it is against state policy to use state property and resources for other than official business. Employees must make certain that any use of state property is permissible under state and agency policies.