



SPRINGFIELD, ILLINOIS

FILED
INDEX DEPARTMENT
JAN 31 2018
IN THE OFFICE OF
SECRETARY OF STATE

EXECUTIVE ORDER

2018-02

EXECUTIVE ORDER STRENGTHENING THE STATE'S ETHICS LAWS AND COMPLIANCE

WHEREAS, the integrity of the Illinois government and State employees and officers and the confidence of the people of Illinois in their State government is of paramount importance; and

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

WHEREAS, the State of Illinois has adopted various laws and regulations intended to promote the honesty, integrity and impartiality of the employees, including but not limited to the State Officials and Employees Ethics Act ("Ethics Act"), 5 ILCS § 430/1-1 *et seq.* and various Executive Orders issued by the governors of the State of Illinois; and

WHEREAS, Executive Order 2016-04 directed the creation of the first State of Illinois Code of Personal Conduct ("Code of Personal Conduct") for all State Employees and updated and strengthened the policies and procedures for investigating and reporting allegations of misconduct by State officeholders, appointees, employees, and vendors, as well as incidents at State facilities; and

WHEREAS, in November 2017, Governor Rauner signed into law HB127 and SB402, which amended the Ethics Act to strengthen State laws and policies against sexual harassment; and

WHEREAS, on December 15, 2017, CMS updated the Code of Personal Conduct to be consistent with the Ethics Act laws regarding sexual harassment; and

WHEREAS, faithfully executing and ensuring compliance with the ethical laws and policies of the State is critical to maintaining the standards of integrity, honesty, respect and impartiality that the people of Illinois deserve; and

WHEREAS, there is no state statute, charter, ordinance, rule, regulation, executive order, or agreement that should preempt the duty of any State officer or employee to act ethically and refrain from sexual harassment under the Ethics Act and Code of Personal Conduct, including collective bargaining agreements.

WHEREAS, the State of Illinois should look to best practices to coordinate sexual harassment training and awareness, as well as all other ethics compliance; and

WHEREAS, focusing resources and attention on compliance as a critical government function aligns with the Ethics Act and Code of Personal Conduct and borrows from private sector compliance models; and

WHEREAS, strengthening sexual harassment investigation requirements and training at State Agencies and creating a Chief Compliance Office within the Office of the Governor is timely and will significantly aid the State's critical interest in preventing sexual harassment;

THEREFORE, I, Bruce Rauner, Governor of Illinois, by virtue of my executive authority to establish and enforce ethical standards for the executive branch and reassign functions among or reorganize executive agencies, vested in me by Section 8 and Section 11 of Article V and Section 2 of Article XIII of the Constitution of the State of Illinois, do hereby order as follows:

I. DEFINITIONS

"Ethics Officer" means the individual designated under 5 ILCS 420/20-23 by the head of each State agency under the jurisdiction of the Executive Ethics Commission to provide guidance to officers and employees in the interpretation and implementation of the Ethics Act.

"Sexual Harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when: (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (ii) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (iii) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. For purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship.

"State Employees" means all officers, employees (including without limitation full-time, part-time, and contractual employees), appointees (including without limitation paid and unpaid appointees), and persons holding similar positions in the Executive Branch of the State of Illinois under the jurisdiction of the Governor.

"State Agencies" means any office, department, agency, board, commission, or authority of the Executive Branch of the State of Illinois under the jurisdiction of the Governor.

"Supervisor" means an officer, a member, or a State employee who has the authority to direct the work performance of a State employee or who has authority to take corrective action regarding any violation of a law, rule, or regulation of which the State employee complains.

II. APPLICABILITY OF ETHICS AND SEXUAL HARASSMENT LAWS

All State Employees and State Agencies are subject to and bound by the Ethics Act. The Ethics Act shall hereby be supreme above all other laws of the State and shall prevail and control in the case of any conflict with other statutes, charters, ordinances, rules, regulations, executive orders or agreements, including collective bargaining agreements.

III. CREATION OF THE CHIEF COMPLIANCE OFFICE, OFFICE OF THE GOVERNOR

A Chief Compliance Office is hereby created within the Office of the Governor. The Chief Compliance Office shall be led by a Chief Compliance Officer ("CCO") who shall be a licensed attorney. In addition to any other duties and responsibilities requested by the Governor, the CCO will aim to foster a culture of ethics and compliance within State Agencies by providing clear policies, procedures and trainings for employees; detect, report and address allegations of misconduct; and work with Ethics Officers to provide State Agencies and State Employees with the tools and guidance to comply with applicable laws and regulations.

The Governor shall name a Chief Ethics Officer and Chief Diversity Officer, who, in addition to any other duties and responsibilities requested by the Governor, shall be a part of the Chief Compliance Office. The Chief Compliance Office may also include any other individual that the CCO determines would aid in the execution of the duties and obligations of the Chief Compliance Office and the Ethics Act. The CCO and Chief Ethics Officer shall have the rights, duties and

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obligations granted to Ethics Officers under 5 ILCS 420/20-23. The Chief Ethics Officer shall also act as liaison and advisor to Ethics Officers of State Agencies. The Chief Diversity Officer shall advise the CCO and Chief Ethics Officer on sexual harassment allegations and investigations that involve issues of diversity.

IV. REASSIGNMENT OF INVESTIGATIVE FUNCTIONS FOR SEXUAL HARASSMENT ALLEGATIONS

The Ethics Act and Code of Personal Conduct state that State Employees should immediately report allegations of sexual harassment to a supervisor, ethics officer, the Office of Executive Inspector General for the Agencies of the Illinois Governor ("OEIG") or the Department of Human Rights ("DHR"). To ensure allegations of sexual harassment are thoroughly investigated, repeat offenders are identified, and victims are not subject to continued sexual harassment, Supervisors and Ethics Officers must adhere to the following procedures and assignment of functions.

1. Sexual Harassment Investigations. Supervisors shall immediately report all allegations of sexual harassment received, directly or indirectly, to the State Agency's Ethics Officer. In addition, to the extent any State Agency permits employees to report sexual harassment allegations to State Agency Equal Employment Opportunity-Affirmative Action Officers, such Officers shall also immediately report all allegations of sexual harassment received, directly or indirectly, to the State Agency's Ethics Officer. Unless the allegation is immediately referred to the OEIG and the OEIG specifically instructs the Ethics Officer to not investigate the matter until further instruction from the OEIG, the Ethics Officers shall ensure the State Agency completes an initial review of each allegation of sexual harassment within ten (10) business days of receipt of the allegation to determine whether further investigation or action is warranted. If further investigation is warranted, the Ethics Officer shall ensure the State Agency completes its investigation and make any referrals for management action or disciplinary proceedings within thirty (30) days of receipt of the allegation. Investigations may be conducted by Ethics Officers, Supervisors or other agents as the Ethics Officer determines appropriate, but all investigations must be conducted in coordination with the State Agency representative who received sexual harassment investigation training as provided in Section IV(3) of this Executive Order.
2. Reporting to the Chief Compliance Office. Ethics Officers shall notify the Chief Compliance Office of all sexual harassment allegations that are reported to the Ethics Officer and Supervisors within his/her State Agency and any related findings and remedial or disciplinary measures recommended or taken. All communications or reports shared among and between the State Agency representatives and the Chief Compliance Office regarding sexual harassment allegations and investigations shall remain confidential between the parties directly involved unless otherwise required by law, consistent with the Freedom of Information Act. Nothing in this Executive Order may be construed to modify the rights or obligations of State Employees and Ethics Officers under Executive Order 2016-04 to report misconduct to the OEIG.
3. Sexual Harassment Investigation Training. By December 31, 2018, and every two years thereafter, at least one representative from each State Agency shall complete training on best practices for investigations of alleged sexual harassment. Training programs shall be overseen and approved by the CCO. Ethics Officers must file a certificate of compliance with this requirement to the Chief Compliance Office by December 31, 2018 and every two years thereafter.
4. Reports made to DHR, OEIG and law enforcement. Victims shall continue to have the independent right to report allegations of sexual harassment to the DHR or the OEIG. Nothing in this Executive Order may be construed to modify the OEIG's or the DHR's rules, policies, procedures, rights or obligations relating to allegations of sexual harassment filed before those bodies. This Executive Order is intended to strengthen sexual harassment investigation and training requirements at the agency level. In addition, nothing in this Executive Order shall be construed to modify any individual's rights and obligations to report criminal activity, including but not limited to assault, to state or local law enforcement.

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V. INCONSISTENT ACTS

From the effective date of this Executive Order, and as long as such Executive Order remains in effect, the operation of any prior act of the General Assembly inconsistent with this reorganization is suspended to the extent of the inconsistency.

VI. SAVINGS CLAUSE

This Executive Order does not contravene any rules, regulation or other agency actions, except as may be provided by Sections II, III and IV.

VII. PRIOR EXECUTIVE ORDERS

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

VIII. SEVERABILITY CLAUSE

If any part of this Executive Order is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

IX. FILINGS

This Executive Order shall be filed with the Secretary of State. A copy of this Executive Order shall be delivered to the Secretary of the Senate and to the Clerk of the House of Representatives and, for the purpose of preparing a revisory bill, to the Legislative Reference Bureau.

X. EFFECTIVE DATE

Provided that neither house of the General Assembly disapproves of this Executive Order by the record vote of a majority of the members elected, this Executive Order shall take effect 60 days after its delivery to the General Assembly.


Bruce Rauner, Governor

Issued by Governor: January 31, 2018
Filed with Secretary of State: January 31, 2018

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