



ILLINOIS EXECUTIVE ETHICS COMMISSION

FISCAL YEAR 2006 ANNUAL REPORT



Dear Employees and Citizens of the State of Illinois:

Since the 2003 State Officials and Employees Ethics Act created the Executive Ethics Commission, the commissioners have been working vigorously to advance ethical job behavior in state government.

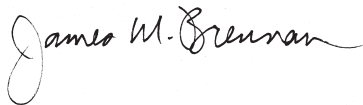
The Ethics Act charges the Executive Ethics Commission with many responsibilities including the duty to educate employees on state ethics rules and, if necessary, discipline employees who violate those rules.

In our first year, the Executive Ethics Commission moved quickly and efficiently to implement the new ethics law and strengthen the law's provisions. In our second, the Commission continues to scrupulously implement the ethics law and work strenuously to inject necessary transparency into the law's provisions. Specifically, the Commission has:

- Helped train 115,000 state officers and employees on the ethics rules.
- Convened the first-ever Commission Ethics Conference where over 100 Ethics Officers and general counsel were trained on the application of the ethics laws.
- Awarded the first annual Abraham Lincoln Ethics Award which was created by the Commission to recognize state employees who have shown exemplary integrity, fairness and service to the people of Illinois.
- Provided frequent on-going advice to the dozens of state agency Ethics Officers on the law's provisions.
- Advised the five Executive Inspectors General on the implementation of the Ethics Act and oversaw their investigations.
- Issued multiple decisions on revolving door waiver petitions.
- Published and distributed 12,000 brochures to state employees concerning two significant ethics issues—prohibited political activity and vendor ethics.
- Submitted to the legislature and Governor a comprehensive plan to strengthen the Ethics Act by enhancing investigation transparency and disciplinary disclosure, and taking other steps to improve the ethical climate in Illinois.

This report summarizes Commission activities since July 2005 and is available on the Commission's website. For more information, please contact the Executive Ethics Commission Executive Director Chad Fornoff at (217) 558-1393.

Sincerely,



James M. Brennan
Chair
Executive Ethics Commission

■ Executive Ethics Commission and Staff—Background

The Executive Ethics Commission comprises nine commissioners appointed by the five executive branch Constitutional officers. The Governor appoints five of the nine Commissioners, and the Attorney General, Secretary of State, Treasurer, and Comptroller each appoint one. The Senate confirms commissioners who serve staggered terms of three or four years.

No more than five commissioners may be members of the same political party, and commissioners must avoid engaging in *any* political activity during the term of their appointment.

■ Members

- **James M. Brennan, Chair** – Governor’s appointee from Wheaton. James M. Brennan is Director of Ethics and Compliance for Takeda Pharmaceuticals North America. James.Brennan@illinois.gov
- **Lawrence Oliver II, Vice Chair** – Governor’s appointee from Orland Park. Lawrence Oliver II is Chief Counsel, Investigations at The Boeing Company, a former federal prosecutor and an Ordained Minister. Lawrence.Oliver@illinois.gov
- **James Faught, Secretary** – Comptroller’s appointee from Wilmette. James Faught is the Associate Dean for Administration at Loyola University Chicago School of Law. James.Faught@illinois.gov
- **Ellen C. Craig** – Governor’s appointee from Chicago. Ellen C. Craig is a telecommunications consultant and former Chairman of the Illinois Commerce Commission. Ellen.Craig@illinois.gov
- **John Cusick** – Governor’s appointee from Chicago. Father John Cusick is the Director of Young Adult Ministry for the Roman Catholic Archdiocese of Chicago. John.Cusick@illinois.gov
- **Shawn Denney** – Attorney General’s appointee from Springfield. Father Shawn Denney is Archdeacon of the Springfield, Illinois Diocese of the Episcopal Church and former Senior Counsel to the Illinois Attorney General. Shawn.Denney@illinois.gov
- **Frederick J. Hess** – Treasurer’s appointee from Belleville. Frederick J. Hess is a partner with the law firm Lewis, Rice & Fingersh, L.C. and former United States Attorney for the Southern and Eastern Districts of Illinois. Frederick.Hess@illinois.gov
- **Maria Kuzas** – Secretary of State’s appointee from Chicago. Maria Kuzas is a registered nurse and manager at Northwestern Memorial Hospital. Maria.Kuzas@illinois.gov
- **Scott F. Turow** – Governor’s appointee from Winnetka. Scott F. Turow is an author and partner with the law firm Sonnenshein, Nath and Rosenthal. Scott.Turow@illinois.gov

■ Staff

- **Chad Fornoff**, Executive Director– Chad Fornoff is a former Illinois Assistant Attorney General and Chief Legal Counsel to the Illinois Court of Claims. Chad.Fornoff@illinois.gov
- **Jeris Gordley**, Office Manager– Jeris Gordley is a former 26-year employee of the Illinois Secretary of State who worked in the Court of Claims division and directed the Employee of the Month program for the entire agency. Jeris.Gordley@illinois.gov

■ **Duties of the Executive Ethics Commission**

The Ethics Act empowers the Commission to:

1. Promulgate rules governing the performance of Commission duties and governing the investigations of the Executive Inspectors General.
2. Conduct administrative hearings on investigations brought before the Commission by an Executive Inspector General.
3. Receive periodic reports from the Executive Inspectors General and the Attorney General regarding on-going and completed investigations.
4. Prepare and publish manuals and guides and oversee training of executive agency employees.
5. Prepare public information materials to facilitate compliance, implementation, and enforcement of the Ethics Act.
6. Make rulings, issue recommendations and impose administrative fines on ethics cases brought before it.
7. Issue subpoenas with respect to matters pending before the Commission.
8. Appoint Special Executive Inspectors General to investigate executive agency inspectors general or to pursue investigations of executive agency ethical misconduct allegations that have failed to be resolved within six months.
9. Consider petitions to waive the “revolving door” prohibition on former state employees.
10. Receive reports of ex parte communications that each agency and constitutional officer is required to file with the Commission.

■ **Rulemaking—Commission Clarifies Ethical Framework**

At its inception, the Executive Ethics Commission quickly promulgated rules to govern its duties and the investigations of the Executive Inspectors General.

The Commission filed emergency rules which appeared in the March 4, 2005 Illinois Register. The adopted rules were published in Volume 29, Issue 28 of the Illinois Register (July 8, 2005) and have been codified at 2 Ill. Adm. Code 1620.

These rules describe the Commission’s organization, explain Freedom of Information Act requests procedures, regulate the conduct of investigations by the Executive Inspectors General, define certain terms contained in Article 10 of the Ethics Act, and set procedures for the conduct of disciplinary hearings, “revolving door” prohibition waiver requests, and reports filed by State officers and employees.

Since promulgating its initial rules, the Commission has determined that further rulemaking is required to clarify additional ethical issues. The Commission intends to promulgate additional rules in during FY 2007.

■ **Education and Training—Commission Helped Train 115,000 State Employees in 2006**

The Executive Ethics Commission helped train and educate approximately 115,000 state employees on Ethics Act requirements in fiscal year 2006.

• **Oversight of Annual Ethics Training**

Exercising its training oversight responsibility, the Commission established an ethics training committee,

chaired by Commissioner Ellen Craig. The committee reviews and approves the annual ethics training programs of the Executive Inspectors General for the Governor, the Attorney General, the Secretary of State, the Comptroller and the Treasurer.

- **Publications**

The Commission published and distributed multiple brochures to employees, highlighting the revolving door prohibition, whistle blowing, prohibited political activity and state vendor rules. The Commission distributed 12,000 brochure copies to employees and vendors and posted the content on the Commission's Web site (<http://www.eec.illinois.gov/>).

The Commission also published and distributed 1500 posters to Ethics Officers and others that describe the rights of whistle blowers. Such posters are required by law to be displayed conspicuously by all state agencies.

■ **First Annual Ethics Officer Conference Held; Abraham Lincoln Ethics Award Inaugurated**

On March 7, 2006 the Commission hosted its first annual Ethics Officer Conference at the University of Illinois – Springfield.

Nearly 100 attendees, mostly Ethics Officers and General Counsel, participated in this all-day conference that featured training on many ethics-related issues. Topics included sessions on ex parte communications and revolving door, whistle blowing and employee rights, gift ban and political activities, personnel issues and conflicts of interest, advanced ethics training, techniques and employee surveys and Ethics Officer best practices.

Additionally, the Commission bestowed its newly minted Abraham Lincoln Ethics Award on two employees of the Illinois Department of Corrections.

Lieutenant Anthony Robinson and Sergeant Edmund Baldwin enforced a change in inmate transportation policy that saved the state over \$1 million per year in overtime pay. Some of their coworkers resented the loss of lucrative overtime pay and subjected Robinson and Baldwin to racial epithets, threats and false accusations. Despite these attempts to retaliate and frustrate their work, Robinson and Baldwin persisted in their scrupulous implementation of the new policy.

“The Commission hopes Lieutenant Robinson and Sergeant Baldwin’s honesty and dedication in the face of adversity serves as an example to all employees of the State of Illinois,” Commission Chair at the time Scott Turow said.

Next year’s Ethics Officer Conference is scheduled at the University of Illinois – Springfield on April 17, 2007.

■ **Web Site—Answers Questions, Provides Statistics**

To help quickly answer questions from state employees and the public, the Commission launched its Web site: <http://www.eec.illinois.gov> in 2005.

The Web site answers frequently asked ethics questions, provides contact information for ethics organizations,

contains the Ethics Act and Commission rules, displays quarterly investigation statistics, and discloses Commission decisions.

The Web site adds new information frequently. For example, the Commission site display “Spotlights” –an ethics trends news page—and is constructing an e-forum for state Ethics Officers to share best-practice ideas and methods.

■ **State Agency Ethics Officers, Executive Ethics Commission Working Together**

During its second year of operation, the Executive Ethics Commission has intensified its work with the state’s executive agency Ethics Officers.

Each state executive agency and constitutional office is required to designate an Ethics Officer whose responsibilities include acting as liaisons between the state agency and the Commission.

During this period, the Commission received an escalating number of inquiries from Ethics Officers concerning the interpretation and implementation of the Ethics Act.

The Commission also serves as a clearinghouse among the Ethics Officers for best ethics practices and shares this critical information with the Ethics Officers.

In addition, the Commission will host a second training conference for Ethics Officers in April 2007.

■ **Oversight of Employee Investigations: Zero Employee Investigations Forwarded to Commission, Transparency Stymied**

The General Assembly requires the Commission to conduct administrative hearings on investigations of suspected employee wrongdoing, whenever an Executive Inspector General chooses (with the concurrence of the Attorney General) to bring claim before the Commission.

Reports forwarded to the Commission indicate that during FY 2006, the five Executive Inspectors General have received over 1800 complaints of wrongdoing and have initiated over 500 investigations.

Of the 500 investigations, the combined five Executive Inspectors General have forwarded zero employee investigations to the Commission. Because the Ethics Act requires secrecy for those investigations that are not reviewed by the Commission, the investigations have been conducted in secrecy and the disciplinary outcomes have been sealed in secrecy.

The Commission firmly believes transparency must be injected into investigations and investigatory outcomes and has recommended legislative changes to the Ethics Act (see *infra*).

■ FY2006

	Allegations Received	Investigations Initiated	Investigations Concluded	Investigations Pending	Actions Filed with EEC	Complaints forwarded to AG	OEIG
<u>1st Quarter</u>							
7/1/05	365	102	55	195	0	0	Governor
9/30/05	140	65	40	47	0	0	Secretary of State
	20	6	3	4	0	0	Attorney General
	0	0	1	0	0	0	Comptroller
	0	1	1	0	0	0	Treasurer
<u>2nd Quarter</u>							
10/1/05-	328	77	156	180	0	0	Governor
12/31/05	79	47	50	55	0	0	Secretary of State
	22	4	6	2	0	0	Attorney General
	0	0	0	0	0	0	Comptroller
	0	0	0	0	0	0	Treasurer
<u>3rd Quarter</u>							
1/1/06-	287	81	72	229	1	0	Governor
3/31/06	93	48	47	56	0	0	Secretary of State
	26	12	7	7	0	0	Attorney General
	0	0	0	0	0	0	Comptroller
	1	1	1	0	0	0	Treasurer
<u>4th Quarter</u>							
4/1/06-	292	65	107	202	0	0	Governor
6/30/06	113	42	46	38	0	0	Secretary of State
	40	18	13	12	0	0	Attorney General
	0	0	0	0	0	0	Comptroller
	0	0	0	0	0	0	Treasurer

■ Revolving Door Waivers Decided

The Commission decided six revolving door prohibition waiver petitions in 2006.

The revolving door provision forbids state officers and employees from accepting employment from particular employers for one year after ending their state employment. Specifically, the revolving door provisions affect former employees who, in the year prior to termination of State service, had the following interaction with their prospective new employer:

- 1) Participated personally and substantially in the decision to award that entity with State contracts with a cumulative value of over \$25,000; or
- 2) Made regulatory or licensing decisions materially affecting that entity.

The law also applies to a former employee's spouse and immediate family members living at home.

Employees may petition the Commission for a waiver of this rule.

During FY 2006, the Commission received seven revolving door petitions. After considering the petitions and supporting documents from the Ethics Officers, the Commission granted one petition, determined that no petition was necessary in four cases. One petition remains open and one petition was withdrawn.

Summaries of these decisions may be found at the Commission's web site, <http://www.eec.illinois.gov>

■ ***Ex parte* Communication Reports**

Each agency and constitutional officer is required to file reports of *ex parte* communications with the Commission. *Ex parte* communications are those oral or written communications made to an agency during the rulemaking period or related to a regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the agency.

During FY 06, the Commission received 115 reports of *ex parte* communications from many different State agencies.

The Executive Director reviews these reports and forwards significant reports to the Commission for discussion and possible referral. The Commission expects that the number of reports will increase as more employees and Ethics Officers become aware of this provision. The Commission continues to increase awareness of this provision by distributing an Ethics Officer Handbook for each agency, and by hosting an annual training conference for Ethics Officers.

■ **Legislative Initiatives—Expand Transparency of Investigations**

Based on the Commission's experience and judgment, it has determined that certain Ethics Act provisions should be strengthened and transparency expanded. Therefore, the Commission has recommended the following legislative solutions to the General Assembly and the Governor:

- Cases of serious employee misconduct, including those involving a penalty of a three-day suspension or more, should automatically be brought to the Commission. Alternatively, the Commission should have a role in approving penalties.
- The Act should be clarified as to the requirement that timekeeping be maintained for official work hours.
- The Commission should have increased oversight over ethics training.
- The revolving door prohibition and gift ban should be strengthened.
- The process for reporting *ex parte* communication should be clarified and simplified.
- The Commission's ability to appoint Special Executive Inspectors General should be expanded to encompass certain additional situations.
- The duties of the Commission should be harmonized with employees' rights contained in collective bargaining agreements.

The Commission looks forward to working with the General Assembly, the Governor and the Executive Inspectors General in order to strengthen the Ethics Act and continue to improve the ethical climate in Illinois. The Commission will continue to fulfill its mission to promote ethics in public service, and to help ensure that State business is conducted with transparency, fairness and integrity.

December 9, 2006

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