



# ILLINOIS EXECUTIVE ETHICS COMMISSION

## FISCAL YEAR 2007 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 steadily to improve the ethical climate in Illinois State government.

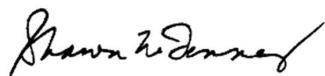
The Ethics Act charges the Executive Ethics Commission with multiple responsibilities. These include, to name just a few examples, monitoring the work of Executive Inspectors General, educating State employees and the public on State ethics rules and, if necessary, disciplining employees who violate those rules.

Since its inception, the Commission has worked vigorously to implement the new ethics law and strengthen its provisions. In FY 2007, the Commission:

- Advised the five Executive Inspectors Generals on the implementation of the Ethics Act and oversaw their investigations.
- Oversaw the training of approximately 200,000 State officers and employees on the ethics rules.
- Convened its annual State Ethics Conference for more than 100 Ethics Officers and Agency General Counsel.
- Awarded the second annual Abraham Lincoln Ethics Award which was created by the Commission to recognize State officers and employees who have shown exemplary integrity, fairness and service to the people of Illinois.
- Provided on-going advice on a daily basis to the more than 100 State agency Ethics Officers on the law's provisions.
- Issued multiple decisions on revolving door waiver petitions.
- Submitted a comprehensive plan to the General Assembly and Governor to strengthen the Ethics Act, and further improve the State's ethical climate, by enhancing investigation transparency and disciplinary disclosure.
- Drafted rules to improve procedures for the conduct of investigations and to increase transparency.

This report summarizes Commission activities since July 2006 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,



Shawn W. Denney  
Chair  
Executive Ethics Commission

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## ■ 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 may not engage in political activity during the term of their appointment.

## ■ Members

- **Shawn Denney, Chair** – 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
- **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
- **James Brennan** – Governor’s appointee from Wheaton. James M. Brennan is Director of Compliance for Reyes Holdings LLC. James.Brennan@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
- **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 Evanston. 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 the Attorney General on behalf of 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 not resolved by an Executive Inspector General within six months, when the reasons for failing to complete the investigation are insufficient.
9. Liaise with Ethics Officers of the various Executive Branch offices and agencies.
10. Decide petitions to waive the “revolving door” prohibition on former state employees.
11. Receive reports of *ex parte* communications that each agency and constitutional officer is required to file with the Commission.

## ■ **Rulemaking—Commission Clarifies Ethical Framework**

Since promulgating its initial rules, the Commission promulgated additional rules to clarify ethical issues during FY 2007, including:

- Explaining employee rights during investigation interviews.
- Setting time-frame requirements for EIGs acting upon complaints.
- Notifying the Commission of the opening and closing of investigations.
- Strengthening an employee’s right to seek counsel.
- Amending the gift ban exception rules related to educational materials and missions and travel to discuss State business.

## ■ **Education and Training— Commission Helped Train 200,000 State Employees in 2007**

The Executive Ethics Commission helped train and educate approximately 200,000 state employees on Ethics Act requirements in fiscal year 2007.

### • **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 conducted an ethics survey of employees of Governor's agencies. The survey final report, available on the Commission's web site, noted that 87% of the respondents reported the presence of one or more elements in their workplace that indicate an unhealthy ethical climate. In 2008, the Commission is conducting a similar survey of employees of the Office of the Secretary of State.

## ■ **Second Annual Ethics Officer Conference Held; Abraham Lincoln Ethics Award Bestowed on Comptroller Daniel W. Hynes**

On April 17, 2007 the Commission hosted its second annual Ethics Officer Conference in Springfield.

Over 100 attendees, mostly Ethics Officers and Agency General Counsel, participated in this all-day conference that featured training on ethics-related issues.

Additionally, the Commission bestowed its Abraham Lincoln Ethics award on Illinois Comptroller Daniel W. Hynes.

"Comptroller Dan Hynes and his staff go beyond the law's requirements to strengthen the ethical culture in his agency," said James Brennan, then Chairman of the Illinois Executive Ethics Commission.

"His scrupulous commitment to the ethical operation of his office earned his office the Commission's unanimous endorsement for the Abraham Lincoln Ethics Award."

At the ethics conference, the Commission conducted 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.

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

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

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.

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

During its third year of operation, the Executive Ethics Commission has intensified its work with the State's executive branch 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.

The Commission regularly receives 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.

The Commission will host a third training conference for Ethics Officers on April 29, 2008.

## ■ **Oversight of Employee Investigations: 5 Investigations Forwarded to Attorney General, Lack of Transparency**

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 refer a disciplinary matter to the Commission.

Reports forwarded to the Commission indicate that during FY 2007, the five Executive Inspectors General have received 1946 complaints of wrongdoing (compared to 1806 in FY 06) and have initiated 356 investigations (compared to 569 in FY 06).

Of the 356 investigations, the combined five Executive Inspector Generals forwarded five investigations to the Attorney General for consideration for filing with the Commission. As a result of the existing law's confidentiality requirements, the results of all investigations and the disciplinary outcomes have not been disclosed to the public.

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

## ■ FY2007

	Allegations Received	Investigations Initiated	Investigations Concluded	Investigations Pending	Actions Filed with EEC	Complaints forwarded to AG	OEIG
<b><u>1st Quarter</u></b>							
7/1/06-	299	35	178	114	0	1	Governor
9/30/06	120	23	35	25	0	0	Secretary of State
	43	13	13	12	0	0	Attorney General
	0	0	1	0	0	0	Comptroller
	0	1	1	0	0	0	Treasurer
<b><u>2nd Quarter</u></b>							
10/1/06-	312	43	118	108	0	1	Governor
12/31/06	101	46	43	25	0	0	Secretary of State
	35	17	2	7	0	0	Attorney General
	0	0	0	0	0	0	Comptroller
	3	3	2	1	0	0	Treasurer
<b><u>3rd Quarter</u></b>							
1/1/07-	321	46	119	81	0	1	Governor
3/31/07	100	31	37	45	0	0	Secretary of State
	36	7	8	5	0	0	Attorney General
	0	0	0	0	0	0	Comptroller
	1	1	2	0	0	0	Treasurer
<b><u>4th Quarter</u></b>							
4/1/07-	338	46	110	85	1	2	Governor
6/30/07	198	35	16	54	0	0	Secretary of State
	38	9	7	7	0	0	Attorney General
	0	0	0	0	0	0	Comptroller
	1	0	0	0	0	0	Treasurer

## ■ Revolving Door Waivers Decided

The revolving door provision forbids State officers and employees from accepting employment from particular employers for one year after ending their State employment to avoid unethical actions or appearances.

Specifically, the revolving door provisions affect employees who, in the year before 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 2007, the Commission decided 6 revolving door petitions. After considering the petitions and supporting documents from the Ethics Officers, the Commission granted 3 petitions and determined that no petition was necessary in 2 cases. 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 07, the Commission received 3,623 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 the annual training conference for Ethics Officers.

## ■ **Legislative Initiatives—Commission Champions Transparency in Ethics Investigations**

In FY 2007 the Executive Ethics Commission worked diligently to change the Ethics Act so that there would be transparency regarding the investigations by Executive Inspectors General. The Commission will continue to champion efforts toward increasing transparency.

In addition to pushing for transparency, the Commission recommended other legislative solutions to the General Assembly and the Governor:

- 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 General Assembly should have direct budgetary oversight over the Commission and Executive Inspector General for Agencies of the Governor.
- The statute of limitations for opening an investigation should be extended from 1 year to 2 years.
- Anonymous complaints should be permitted with appropriate safeguards.
- Whistleblower protection should be strengthened.
- The prohibition of certain public service announcements involving elected officials should be broadened.
- The Gift Ban “catch-all” exception of \$100 per prohibited source per calendar year should be decreased.
- The Revolving Door prohibition should be strengthened to prohibit certain employment relationships involving current, as well as former, employees.
- The Act should be clarified as to the requirement that timekeeping be maintained for official work hours.

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. ■

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