



## 2018 ETHICS ORIENTATION

for State of Illinois Employees

Subject to the Authority of the Office of Executive Inspector General  
for the Agencies of the Illinois Governor

**Note:** This training course has been developed in accordance with the requirements of the State Officials and Employees Ethics Act (5 ILCS 430/5-10). It has been developed for this purpose under the direction of the Office of Executive Inspector General for the Agencies of the Illinois Governor (“the OEIG”). Not for use by other than State of Illinois employees, appointees or officials without the express prior consent of the OEIG.

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## Introduction/General Principles

As an employee of the State of Illinois, you are subject to various laws, rules, and policies, some of which apply only to individuals who work for the state and some of which may be particular to your agency. Some of these, including the State Officials and Employees Ethics Act (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**.

To act ethically, you must use state-provided resources in the most productive and efficient way possible and, generally, only for the work of state government. You must avoid placing your personal or financial interests above those of the state. If you have knowledge of conduct by a state employee, appointee, or official, or by a person who does business with the state that is either unethical or unlawful, you have an obligation to notify the appropriate authorities.

It is your responsibility to become familiar with and obey the laws, rules, policies, and regulations that apply to you. If you have a question about either the legality or ethics of a matter related to state government, you may discuss the question with the ethics officer for your state agency.

## Ethics Officers

Each state agency is required to designate an ethics officer. Ethics officers:

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

For your reference, a list of ethics officers for entities under the jurisdiction of the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) may be found via the Internet at: <http://www.inspectorgeneral.illinois.gov>.

## Executive Ethics Commission

([www2.illinois.gov/eec](http://www2.illinois.gov/eec))

Established in 2004, the Executive Ethics Commission (EEC), 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 elected 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 EEC promulgates regulations governing investigations by the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG), 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 additional information about the Executive Ethics Commission, visit its website at: <http://www2.illinois.gov/eec>.

## Office of Executive Inspector General

([www.inspectorgeneral.illinois.gov](http://www.inspectorgeneral.illinois.gov))

Established in 2003, the OEIG is an independent state agency. Its primary function is to investigate fraud, waste, abuse, and violations of the Ethics Act and other 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 governor;
- the lieutenant governor;
- the board members and employees of and vendors and others doing business with the regional transit boards (i.e., the RTA, the CTA, Metra, and Pace);
- the board members and employees of and vendors and others doing business with the state public universities; and
- all employees of and vendors and others doing business with 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.

To file a complaint with the OEIG, please use one of the following means:

- (1) Call 866.814.1113
- (2) Fax 312.814.5479
- (3) TTY 888.261.2734
- (4) Log in to [www.inspectorgeneral.illinois.gov](http://www.inspectorgeneral.illinois.gov) and click on "complaints;" or
- (5) Mail your complaint to one of the OEIG offices:

OEIG  
69 West Washington, Suite 3400  
Chicago, Illinois 60602

OEIG  
607 East Adams, 14<sup>th</sup> Floor  
Springfield, Illinois 62701

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

## Ethics Training

(Ethics Act, Section 5-10)

**“In recent years, she was required to take annual ethics training that covered issues related to prohibited political activities. She should have known better.”** (EEC decision #11-EEC-005)

– These are words from an Executive Ethics Commission decision. They are in explanation of the commission’s decision to levy a \$4,000 fine against the former executive director of the Illinois Board of Higher Education, for violating the Ethics Act. They reinforce the importance of learning about and complying with the law.

The State Officials and Employees Ethics Act (5 ILCS 430/5-10) requires state employees to complete, at least annually, an ethics training program conducted by their state agencies. It also requires that new employees complete ethics training within 30 days of the commencement of employment or appointment. This training program is intended to allow you to meet your statutory obligation.

It is the responsibility of each state agency to conduct ethics training and to report to the appropriate ultimate jurisdictional authority regarding those individuals who have or have not completed training.

Your state agency will notify you and provide instructions to you concerning when and how to participate in ethics training.

## Personnel Policies

(Ethics Act, Section 5-5)

State employees are required to follow practices that comply with the personnel policies set forth by the Office of the Governor and by their state agencies. By law, these policies must include elements related to:

- work time requirements;
- documentation of time worked;
- 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)

“DCFS contractual employee ... failed to provide accurate time records and invoices, when on multiple dates... he billed the State for time when he was not performing State duties...” (OEIG Case #15-02309)

– These are words from a publicly released OEIG investigative report. The OEIG found that a former DCFS employee, among other forms of misconduct, violated the agency’s timekeeping policy. The employees’ DCFS employment contract was terminated.

The law requires your agency to have a policy requiring you to periodically submit time sheets documenting the time spent each day on official state business to the nearest quarter hour. **As a state employee, you are expected to accurately report the hours that you work for the state, on a timely basis, in a format directed by your state agency.**

## Hiring Practices

(*Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990); Administrative Order No. 1 (1990), No. 2 (1990), No. 1 (1991), and No. 2 (2009))

“The OEIG concludes that [Respondent]’s political involvement with [the state employee] created a conflict of interest when [the respondent] participated in the *Rutan* interview of [the state employee], thereby violating Administrative Order No. 2 (2009) and IDOT policy” (OEIG Case #15-00238)

– These are words from a publicly disclosed OEIG investigative report explaining how an Illinois Department of Transportation employee improperly participated in a *Rutan* interview after actively campaigning on behalf of one of the candidates for the state position.

The overwhelming majority of employee positions in state government are subject to hiring procedures implemented to comply with a 1990 U.S. Supreme Court decision, *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990), commonly referred to as “*Rutan*.” These procedures prohibit consideration of political affiliation or support or lack thereof in connection with hiring, promotion, transfer, or recall from layoff, relating to most state jobs. That is, most positions in state government must be filled on an objective merit basis, without regard to any applicant’s political affiliation. Only a limited number of state jobs are exempt from these requirements.

Procedures for making hiring decisions for *Rutan*-covered positions have been established by the governor and apply to all agencies, boards and commissions under the jurisdiction of the Office of the Governor. For most hiring decisions, these procedures state that:

- any employee who receives a personnel request, referral, or recommendation for a *Rutan*-covered position must refer the person making the request, referral, or recommendation to the Department of Central Management Services Governmental Affairs department for disposition;
- grading of employment applications must be completed on a “blind” basis; that is, applicants’ names and any personally identifiable information must be redacted from applications before they are graded;
- grading of applications must be free from all political considerations;
- the creation of lists of eligible candidates for a *Rutan*-covered position must be done on a blind basis; and
- job descriptions for *Rutan*-covered positions must be reviewed and, if necessary, updated prior to posting, to reflect current duties, responsibilities, and requirements.

Furthermore:

- any employee who participates in an interview of a candidate for a *Rutan*-covered position must have previously and successfully completed training related to *Rutan* hiring practices;
- *Rutan* interviewers must make their assessments of candidates based on pre-determined hiring criteria and with uniform questions related to the position’s duties;
- employment decisions must be properly documented, including a written justification for the agency’s employment decision; and
- the agency director or his or her designee must certify that the employment decision was not based on political party affiliation or support (or lack thereof).

The Ethics Act empowers the OEIG to review hiring and employment files so as to ensure compliance with *Rutan* and applicable employment laws. As part of its hiring monitoring program, the OEIG reviews various agency hiring practices, procedures, and employment decisions.

## Q & A

- Q. My brother has applied for a *Rutan*-covered position and I know he’s well qualified. Is it okay for me to put in a good word regarding my brother with the people preparing a candidate list for this *Rutan*-covered position?
- A. No. The creation of candidate lists for *Rutan*-covered positions must be done on a blind basis; that is, without knowledge of the candidates’ names. Recommendations like the one described are to have no weight in the *Rutan*-covered hiring process.
- Q. What should I do if someone offers me a recommendation concerning a potential candidate for a *Rutan*-covered position for which I am responsible?

- A. Explain to the individual who offered the recommendation that there are established procedures for filling *Rutan*-covered positions, including that you will have to submit all requests, referrals, or recommendations to the CMS Governmental Affairs Department.
- Q. What should I do if someone directs me to place someone in a *Rutan*-covered position on the basis of the job applicant's political affiliation?
- A. Report the matter to your ethics officer, the CMS Governmental Affairs Department, or the OEIG.

## Conflicts of Interest

"DCFS [employee] took official action related to awarding a no-bid contract to [a company], which was a contract involving a person with whom [the employee] had a financial relationship, in violation of DCFS's conflict of interest policy..." (OEIG Case #15-02309)

- These words are from a publicly released OEIG investigative report. The OEIG found that the state employee violated DCFS' conflict of interest policy by participating in the decision to award a no-bid contract to a company in which the state employee had co-ownership of investment property with one of the company's consultants.

Many state employees have personal, financial, or business interests, second jobs, or volunteer activities that have the potential to conflict with their official work on behalf of 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 an employee makes in 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:

An employee has a conflict of interest when his secondary employment duties interfere with his state employment duties.

Official actions taken by state employees, such as making a hiring decision or recommendation, approving a license application, or granting a contract, must be in the best interests of the state. State employees' official actions must not be influenced by their own personal or financial interests, or those of their friends, family members, or associates.



## Do What's Right!

### Recommended Best Practice

In any instance where you believe you may have, or appear to have a conflict of interest with respect to your state employment, it is your responsibility to immediately take steps to appropriately disclose the potential conflict and take action to remedy it. Disclosure should be made in accordance with any applicable policies of your state agency. In the absence of a relevant policy, disclosure should be made to your supervisor or to your agency's ethics officer. Every immediate effort should be made either to eliminate the conflict or to recuse yourself from any official business related to the conflict. As a state employee you should be alert to the appearance of conflicts of interest in your official duties.

In certain instances, a state employee's conflict of interest may violate the law. For example, it would be unlawful for a state employee to provide confidential information about a vendor selection process to a business associate whose company is vying for state business. The use of such insider information to benefit oneself or another person is unlawful under the Illinois Procurement Code (30 ILCS 500/50-50).



### Conflicts of Interest Lesson Review

#### Scenario #1

Amanda is a state employee who also has a second job with a company that does business with the state. As part of Amanda's state employment, she makes recommendations regarding the issuance of state contracts.

Amanda's secondary employer submitted a bid for a contract with the state agency <name> works for. Should Amanda participate in the award of this contract?

- A. Maybe, if she is not the final decision maker.
- B. Yes, Amanda can improve her status with his secondary employer by helping it obtain additional business.
- C. No. Amanda should not participate in the award of this contract. She should notify her supervisor of her conflict, and withdraw from the selection process.

Select the best answer(s) and then compare your response to the explanation below.<sup>1</sup>

## Scenario #2

Ronald is a state employee and is involved in hiring for his agency. While reviewing applications for an open position, Ronald notices that a family friend has applied for the position, and decides to accept the application and schedule an interview.

Is it appropriate for Ronald to schedule the interview?

- A. Yes. There is nothing inappropriate about scheduling an interview for someone who happens to be a family friend for state employment.
- B. No. Ronald's relationship with the applicant represents a conflict of interest.
- C. Maybe, if the family friend is qualified to perform the job duties, then there is no issue with Ronald's actions.

Select the best answer(s) and then compare your response to the explanation below.<sup>2</sup>

## Prohibited Political Activities

(Ethics Act, Section 5-15)

**"[The] respondent violated [the Ethics Act]... when she intentionally performed "prohibited political activity" during compensated time, by distributing political flyers to other State employees." (EEC decision #16-EEC-006)**

– These are words from a publicly released EEC decision. The commission decided to levy a \$1000 fine against the respondent for intentionally misappropriating state resources to engage in prohibited political activity.

State employees may never intentionally misappropriate state property and resources (such as state-provided telephones, cell phones, photocopiers, email accounts, or computers) for the benefit of any campaign for elective office or any political organization. Also, state employees

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<sup>1</sup> The best response to Scenario #1 is C. Amanda should notify her supervisor of the conflict of interest and follow any applicable policies of her state agency in dealing with the matter. State employees are generally advised to recuse themselves from official acts that may present a conflict of interest.

<sup>2</sup> The best response to Scenario #2 is B. Ronald's relationship with the applicant constitutes a conflict of interest regardless of whether his friend is qualified for the position. Ronald should examine his agency's policies to ensure that he complies with them. He should not participate in scheduling interviews with his friend and he should consult his agency's ethics officer to ensure that he complies with applicable laws and policies, if necessary.

must not intentionally perform any of the following activities during state-compensated time other than vacation, personal, or compensatory time off:

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

*For example, a state employee may not send an email to fellow workers during work hours or using a state email account at any time, encouraging them to attend a rally for a candidate for public office.*

- 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
- 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 candidate 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 for elective office or a political organization, or for or against any referendum question, or help in an effort to get voters to the polls
- Initiate for circulation, 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 in that capacity or in connection with a campaign 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
- 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
- Participate in any recount or challenge to the outcome of any election
- Compel a subordinate state employee to perform prohibited political activities at any time

For the most part, the law allows state employees to engage in political activity only on their own time and with their own resources. However, even when these conditions are met, there are exceptions. For example, certain public employees may never solicit certain people or businesses for campaign contributions, if the employee's duties include regulatory oversight of the person or business who is solicited.

The only compensated time during which state employees or board members may take part in these activities is vacation, personal, or compensatory time off. Sick time may not be used for political activity that is prohibited on compensated time. Also, state employees and board members may never engage in any of these activities by intentionally 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.

## Do What's Right!

### Recommended Best Practice

In some instances, state agency policies or the law may more severely restrict the political activities of certain state employees, including those activities that may take place outside of the time during which those employees work for the state. Check your agency's policies to ensure that you comply with them.



## Prohibited Political Activities Lesson Review

### Scenario #3

After her workday, Tracey uses her state computer to quickly update an invitation to a political campaign rally. The update takes less than five minutes, and Tracey deletes the file from her state computer afterwards.

Is this a violation of the Ethics Act?

- A. Yes. State employees may not misappropriate state resources to engage in prohibited political activities at any time.
- B. No. Limited use of state resources, such as Tracey's quick update to the political flyer, does not violate the Ethics Act.
- C. No. The Ethics Act does not restrict state employees from performing political activities using state resources during uncompensated time.

Select the best answer(s) and then compare your response to the explanation below.<sup>3</sup>

#### **Scenario #4**

Kenneth, a state employee, uses a sick day to work on a campaign for elective office. Is this allowable under the law?

- A. Yes, because Kenneth is using benefit time to cover his time away from the job.
- B. No, because the Ethics Act does not allow state employees to perform political activities at any time.
- C. No. Prohibited political activities may only be performed during a state employee's compensated time if the employee uses vacation, personal, or compensatory time off.

Select the best answer(s) and then compare your response to the explanation below.<sup>4</sup>

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<sup>3</sup> The best response to Scenario #3 is A. The Ethics Act prohibits state employees from intentionally misappropriating state property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office at any time.

<sup>4</sup> The best response to Scenario #4 is C. The Ethics Act permits state employees to perform prohibited political activities during compensated time only if they use vacation, personal, or compensatory time off. Sick time may not be used for this purpose. This restriction applies regardless of where the activities are performed. The Ethics Act does not restrict all political activity.

## 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, candidates for elective office, persons required to register under the Lobbyist Registration Act, or any officers, employees, or agents of any political organization.

“State property” means any building or portion thereof that is owned or exclusively leased by the state. “State property” does not include any building or portion thereof that is leased to another entity.

## Prohibited Offer or Promise

(Ethics Act, Section 5-30)

A state employee, appointee, or official 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.

**If another state employee or official asks or directs you to make a prohibited offer or promise, you have a duty to report it to your ethics officer or the OEIG.**

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 or 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; 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;
- 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, a state job, an appointment to a state board, or the award of a state contract, in exchange for a political campaign contribution.

## Prohibited Public Service Announcements and Other Promotional Material

(Ethics Act, Section 5-20)

The Ethics Act prohibits any public service announcements or advertisements on behalf of any state administered program that contain the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly from being broadcast or aired on radio or television, printed in a commercial newspaper or commercial magazine, or 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 funds.

## Ban on Gifts from Prohibited Sources

(Ethics Act, Sections 10-10, 10-15, 10-30, and 10-40, Executive Order 15-09)

“Respondent violated the gift ban in the Ethics Act when she intentionally accepted roundtrip airfare... in the amount of \$2,845.80, ... from [a prohibited source].” (EEC decision #16-EEC-005)

– These are words from an EEC decision to fine an IDOT employee for intentionally accepting an offer from a prohibited source. The employee was fined \$1000 by the EEC.

Generally, as a state employee, you should not ask for or accept anything of value (other than compensation or reimbursement you receive from the state) in relation to your position with the state. Asking for or accepting a gift may be illegal under the Ethics Act, or prohibited by your state agency's policies. In some instances, state agency policies may be more restrictive than the Ethics Act's gift ban. Furthermore, anything of value, if offered to you in exchange for an official act, may be considered a bribe. Bribery is a Class 2 felony.

Examples of gifts possibly prohibited by the Ethics Act include, among other things, tickets to sporting events, hospitality, specially discounted merchandise or services, entertainment, loans, reimbursement of travel expenses, gratuities, cash, food, drink, and honoraria for speaking engagements, **if offered by a prohibited source**.

Under the Ethics Act, state employees may not intentionally solicit or accept gifts from certain individuals or entities defined by law as a “prohibited source,” nor may they accept gifts in violation of any federal or state statute, rule, or regulation. It is also unlawful for state employees' spouses or immediate family members living with them to intentionally solicit or accept a gift from a prohibited source.

**Prohibited sources** include a person or entity that:

- seeks official action by the state employee or by the constitutional officer, state agency, or other employee directing the employee;
- does business or seeks to do business with the employee or with the constitutional officer, state agency, or other employee directing the employee;
- conducts activities that are regulated by the employee or by the constitutional officer, 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 the 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 when you may lawfully receive certain items of value from a prohibited source.

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 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 an immediate family member, grandparent or grandchild, or other relative listed in Sec. 10-15(6) of the Ethics Act;
- anything provided by an individual 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 refreshments that do not exceed \$75 per calendar day;
- food, refreshments, lodging, transportation and other benefits resulting from 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 having a cumulative total value of less than \$100.

\*EEC Regulation [2 Ill. Adm. Code 1620.700] states that educational materials and missions are those that have a close connection to the recipient's state employment or the mission of the agency; 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.

\*\*EEC Regulation [2 Ill. Adm. Code 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 terms of Executive Order 15-09, state employees under the governor's jurisdiction may not accept any more than *de minimus* food or refreshments per day, or items from any one prohibited source during any calendar year. Reimbursements for educational missions and travel expenses must be made directly to the state agency, and missions and travel must be approved in advance by the Executive Director of the Executive Ethics Commission.

Under the Ethics Act, when a prohibited source offers a gift that does not qualify for an exception under the Act, the employee does not violate the Act if the employee promptly:

- returns the gift to the giver; or
- gives the gift or an amount of equal value to an appropriate charity that is exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1986.

## Do What's Right!

### Recommended Best Practice

In general, it is recommended that you simply decline anything of value offered to you (other than compensation or reimbursement you may receive from your state agency) in relation to your official duties. Furthermore, you should be mindful of accepting gifts that have the appearance of being improper.



## Gift Ban Lesson Review

### Scenario #5

Denise has a working relationship with a vendor of her state agency. After finding out that Denise is a huge rodeo fan, the vendor offers Denise two tickets to a rodeo, valued at \$250 each.

Can Denise legally accept the tickets offered by the state vendor?

- A. Yes. After years of working with the vendor, Denise feels that the vendor is a personal friend and therefore, she is permitted to accept the gift.
- B. Yes, Denise can accept the gift as long as she pays the vendor the market value of the tickets.
- C. No, state employees may never accept anything from vendors.

Select the best answer(s) and then compare your response to the explanation below.<sup>5</sup>

## Official Misconduct, Bribery, and Solicitation Misconduct

(Criminal Code of 2012 (720 ILCS 5/33-3))

### ► Bribery

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.

### ► Reporting Bribery

Any state official or employee who is offered a bribe, even if they decline to accept the bribe, must report the attempt to the Illinois State Police. Failure to report a bribe or an offer of a bribe is a Class A misdemeanor.

## Q & A

- Q. Is it unlawful for a state employee to request or accept anything of value in exchange for authorizing a state contract to a vendor?
- A. Yes. If employees or officials request or accept a bribe, they could face criminal charges. It is also a criminal violation of the law if state employees or officials fail to report a bribe.

### ► Official Misconduct

Public officers or employees, including state employees, commit official 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

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<sup>5</sup> The best response to Scenario #5 is B. State employees may lawfully accept gifts from a prohibited source like vendors under limited circumstances. Denise may accept the tickets if she pays market value for them. The vendor's long relationship with Denise does not create an exception to the Gift Ban.

- 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 of these provisions forfeit their office or employment. In addition, official misconduct is Class 3 felony.

### For Example:

A state employee who delays an official action for no valid reason in order to obtain something of value for his or her personal benefit could be found to have committed official misconduct.

#### ► **Solicitation Misconduct**

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, state employees may lose their state jobs, in addition to criminal penalties.

## **Revolving Door (Post-State Employment) Procedures**

(Ethics Act, Section 5-45)

The revolving door provisions of the Ethics Act prohibit public employees, for one year after leaving public service, from accepting employment or compensation from a person or entity, if, during the year prior to leaving public service, the employee participated "personally and substantially" in the award of a contract or contracts with a cumulative value of \$25,000 or more to, the prospective employer, its parent or subsidiary. The provisions also apply if the state employee or appointee participated personally and substantially in a regulatory or licensing decision directly applicable to, the person or entity, or its parent or subsidiary. Certain public employees whose positions may have the authority to participate personally and substantially in such decisions are required to seek a determination from the OEIG that they may accept employment prior to accepting an offer. A small number of high-ranking public officials are prohibited from accepting employment or compensation from any person or entity who is party to a contract involving the employee's State agency or the subject of a regulatory or licensing decision involving the State employee's agency, even if they did not individually participate awarding a contract to, or making a regulatory/licensing decision directly applicable to, the person or entity.

#### ► **Employment Restrictions for Certain High-Level Employees**

A limited number of state officers, employees, or appointees in certain high-level positions, called H List employees, 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, **regardless of whether they were personally involved in regulatory or licensing decisions, or in the award of a contract.** The Ethics Act describes these H List requirements in subsection (h) of Section 5-45.

These provisions apply to:

- persons whose appointment to office is subject to the advice and consent of the Senate;
- the head of a department, commission, board, etc., 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;
- chiefs of staff, deputy chiefs of staff, associate chiefs of staff, assistant chiefs of staff, and deputy governors;
- members of a commission or board created by the Illinois Constitution; and
- executive branch constitutional officers.

Persons in the aforementioned positions may not accept employment, compensation, or fees during a one year period after the termination of their state employment from a person or entity, if the person or entity or its parent or subsidiary, during the year immediately preceding termination of state employment was:

- a party to a state contract or contracts with a cumulative value of \$25,000 or more involving the employee's agency; or
- was subject to a regulatory or licensing decision involving the employee's agency.

There is no determination process for people on the H List. The employment restrictions on these positions apply regardless of whether the officer, employee, or appointee participated personally and substantially in the award of state contracts or the making of the regulatory or licensing decision in question.

### ► Requirements and Procedures that Apply to Employees or Appointees, Who Have Authority to Participate in Contract, Licensing, or Regulatory Decisions

While employees who are not on the H List may seek a determination of whether they were personally and substantially involved in a matter regarding a prospective employer, certain state employees are required to seek a determination prior to accepting any post-State employment. If your position may have authority to participate personally and substantially in the award of state contracts or in regulatory or licensing decisions, you will be instructed in writing by your agency that you must seek a determination from the OEIG before you may accept employment after you leave state service. The Ethics Act describes these C List requirements in subsection (c) of Section 5-45.

The duty to seek a determination from the OEIG continues for a period of one year immediately after ending your state employment.

### ***Determination Process***

Within 10 calendar days of notification, the OEIG will determine whether or not a state employee is restricted from accepting the offer.

The OEIG’s determination regarding non-state employment will be based on whether, during the year preceding termination, the state employee participated personally and substantially in any contract awards or regulatory or licensing decisions directly applying to the prospective employer.

The OEIG’s determination may be appealed to the Executive Ethics Commission by either the affected employee or the Office of the Attorney General no later than 10 calendar days after the date of the determination. The EEC must issue its decision within 10 calendar days. Therefore, the OEIG’s determination is not final until either the time to appeal has expired without appeal or, in the case of an appeal, until the EEC has made its decision.

If you wish to accept an offer of employment or compensation by an individual or business that conducted official state business with you or your state agency, you may discuss the matter with your state agency’s ethics officer or private legal counsel to ensure that you comply with the law. If you are not on the H List, you may also seek a determination from the OEIG; indeed, if you are on the C List, you are required to seek a determination.

The Executive Ethics Commission has the authority to issue a fine to a state employee 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 prohibitions. C List employees who fail to seek a determination may face a fine of up to \$5,000.

#### **All State Employees**

For one year after leaving state employment, no state employee may accept post-state employment with any entity with regard to which, in the year prior to leaving state employment, he or she participated personally and substantially in the award of contracts with a cumulative value of \$25,000 or more to that entity or its parent or subsidiary, or in a regulatory or licensing decision that directly applied to that entity, or its parent or subsidiary.

#### **H List Employees**

In addition to the prohibitions that apply to all state employees, certain high-level employees, including, among others, constitutional officers, members of constitutionally created boards, certain appointees, heads of state agencies, chief procurement officers, and chiefs of staff, called “H List” employees, are subject to the following prohibition:

For one year after leaving state employment, an H List employee may not accept post-state employment with any entity that was a party to state contracts with a cumulative value of \$25,000 or more involving the employee’s agency, or that was subject to a regulatory or licensing decision involving the employee’s agency, ***irrespective of whether the employee personally participated in the contract award or regulatory/licensing decision.***

#### **C List Employees**

The Ethics Act requires the identification of a subset of State employees, called “C List” employees, who are required to seek a determination from the OEIG before accepting post-state employment with a non-state employer. State employees are placed on the C List if their positions, by the nature of their duties, may have the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions.

State employees who are not on the C List are not *required* to seek a determination from the OEIG before accepting non-state employment; however, because all State employees are subject to the revolving door prohibitions, the EEC’s regulations provide that any state employee (other than H List employees) *may* seek a determination from the OEIG.

► **Additional Revolving Door Provisions in the Procurement Code**

In addition to the provisions of the Ethics Act, certain state employees whose principal duties for at least six months are directly related to state procurement are expressly prohibited from engaging in any procurement activity on behalf of a post-state employer relating to the state agency most recently employing them. This prohibition extends for two years after leaving the state agency. Relatedly, a state employee with an offer or contract to work for a vendor at any time in the future may not negotiate with that vendor on behalf of the state. See Sections 50-15 and 50-30 of the Procurement Code for more details.

► **Additional Revolving Door Restrictions Instituted by Executive Order**

Under the terms of Executive Order 15-09, state employees under the governor’s jurisdiction are prohibited from (1) negotiating post-state employment with an entity that lobbies their agency while the employee is working for the state and (2) accepting employment for lobbying executive branch agencies for one year after leaving their state position. These restrictions apply to all state employees under the governor’s jurisdiction regardless of whether you are involved in licensing or regulatory decisions or the award of state contracts.



## Revolving Door Lesson Review

### Scenario #6

Patrick is a former state employee whose duties included participating in the award of state contracts. While a state employee, Patrick was notified that by virtue of his position’s duties, he is subject to revolving door employment restrictions. Six months after leaving state employment, a vendor that had a contract with Patrick’s previous state agency offers him a job.

What actions, if any, must Patrick take before accepting the new employment offer?

- A. None, since revolving door employment restrictions only apply to state constitutional officers.
- B. Patrick may first accept the offer but must notify the OEIG before starting work.
- C. Patrick must notify the OEIG and seek its determination prior to accepting the employment offer.

Select the best answer(s) and then compare your response to the explanation below.<sup>6</sup>

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<sup>6</sup> The best response to Scenario #6 is C. By law, Patrick is required to notify and seek a determination from the OEIG prior to accepting an offer of employment from the contractor.

## Whistle Blower Protection

(Ethics Act, Article 15 and Whistleblower Act, 740 ILCS 174)

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 against the law.**

Under the Ethics Act, an officer, state employee, or state agency may not lawfully take any retaliatory action against a state employee for:

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

Retaliatory action means the reprimand, discharge, suspension, denial of promotion, demotion, transfer or change in the terms or conditions of the state employee's employment, taken in retaliation for a state employee's involvement in a protected activity.

Whistle blower protections do not 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 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, the individual taking the retaliatory action may be subject to disciplinary action up to and including discharge by his or her state agency, as well as potential administrative action by the 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.

In addition to the remedies available under the Ethics Act, protections are available to any employee under the Whistleblower Act (740 ILCS 174). Under the Whistleblower Act, it is generally unlawful for any employer to retaliate or **threaten retaliation** for an employee's

disclosure of information to a government or law enforcement agency if the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule, or regulation.

If an employer retaliates against an employee in violation of the Whistleblower Act, the employee may bring a civil action against the employer that may result in:

- reinstatement of employment and seniority rights;
- back pay, with interest; and,
- compensation for any damages including litigation costs, expert witness fees, and reasonable attorney's fees.

## Reporting Violations of Law, Regulation, or Policy

(Executive Order 16-04) **OEIG Hotline: 866-814-1113**

Executive Order 16-04 requires employees under the jurisdiction of the governor to report misconduct to the proper authorities.

To report a **non-emergency violation** of law, regulation, or policy, you should contact the OEIG via its **toll-free Hotline** at **866-814-1113**. Reports of alleged violations may also be submitted via the Internet at: <http://www.inspectorgeneral.illinois.gov>. For those who prefer it, the OEIG may also be contacted toll-free via a telecommunications device for the deaf (TDD) at 888-261-2734.

Alleged violations may be reported to the OEIG anonymously.

In the event of an emergency situation, for example, involving the illegal possession or use of a weapon, you should contact the Illinois State Police or other police agency that can provide the fastest response (for example, by dialing "911").

## Rights and Responsibilities during Investigations

(Ethics Act, Section 20-70; 2 Ill. Admin. Code Section 1620.300; and Executive Order 16-04)

State employees who become involved in an OEIG investigation have both rights and responsibilities. As a state employee, you have an obligation to cooperate in such investigations. You must participate in interviews as requested, tell the truth, and not withhold information. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements, and is grounds for disciplinary action, including dismissal, and may also include a fine levied by the Executive Ethics Commission.

In the course of an investigation, investigators may request information from any person when the information is deemed necessary for the investigation. The OEIG may issue subpoenas to compel the attendance of witnesses and the production of documents and other items for inspection and copying.



The OEIG may request that any state employee truthfully answer questions concerning any matter related to the investigation. If so requested, no statement or other evidence therefrom may be used against the employee in any subsequent criminal prosecution, unless the employee consents.

Requests for production or viewing of documents or physical objects under state agency control must be made in writing by the OEIG. 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.

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

- 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 administrative in nature, the interviewee must be presented a form that outlines the interviewee's rights during the interview, including the right to presence of a union representative or coworker uninvolved in the investigation.
- If the underlying investigation is **criminal** in nature, the 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.

It is the policy of the OEIG that OEIG investigators will present the interviewee with an OEIG form outlining the interviewee's rights unless OEIG investigators reasonably believe at the time of an interview that there are no circumstances under which an interviewee will be likely to face discipline or adverse action.

The OEIG will not infringe upon a state 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 regulations governing OEIG investigations may be found at the EEC's website: <http://www2.illinois.gov/eec>.

## Memorializing Communications

Several statutes, including the Procurement Code, and the State Officials and Employees Ethics Act, require State employees under certain circumstances to create records of communications they may receive. Generally, these laws aim to ensure transparency and fairness in regulatory, quasi-judicial, procurement, and other matters, by ensuring that all interested parties are aware of relevant communications between the agency and other interested parties.

## ► Procurement Communications

The State of Illinois spends literally billions each year through the procurement process. In order to ensure that the State gets the best value for its money, laws require State employees to take certain steps to protect the integrity of the procurement process. These laws require State employees who may have authority to participate personally and substantially in the decision to award a State contract to memorialize certain communications.

Any State employees who may have authority to participate in contract award decisions, who receives a communication about an active procurement matter, including contract awards, change orders, and contract renewals or extensions, should ensure that the communication is included in the official record of the award decision, if it meets certain conditions.

Communications should be recorded and reported if the communication is potentially relevant to determining a course of action (such as information about price, quantity, terms of payment, or performance); if it is in regards to a potential action, if it is related to procurement, AND if it is not otherwise excluded.

The employee should memorialize any communication, whether by phone call, an email, a letter, an in-person conversation, or otherwise, noting the name of the party that made the communication, the date, time, and duration of the communication, the method of communicating, and a summary of the substantive content of the communication.

In some instances, for example if the communication is made by a lobbyist or a power supplier, the State employee may at some point receive documentation from the person who initiated the communication to memorialize the communication. But even after receiving that documentation, an employee is still required to create their own report.

These reports should be filed with the Procurement Policy Board.

If the communication is made in the course of a formal public hearing; is privileged, protected, or confidential by law; or is about general procedural steps, like the format or number of copies to be submitted, then the employee does not need to record the communication.

Any State employee, whether he or she has authority to participate in procurement or not, who suspects collusion or other anticompetitive practice among any bidders, offerors, contractors or State employees, must report those suspicions to the Attorney General and the Chief Procurement Officer.

Certain State employees who willfully use details of procurement matters to compromise the fairness or integrity of the procurement process may be subject to dismissal, regardless of the Personnel Code or any collective bargaining agreement, and may also be subject to criminal prosecution.

► **Ex Parte Communications in Rulemaking (Administrative Procedures Act, 5 ILCS 100, Section 5-165)**

Just as State law requires employees at all agencies who are involved in procurement to memorialize certain communications, State law also requires employees at all agencies who are involved in rulemaking to memorialize certain conversations. **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 a state agency's general, emergency, or preemptory 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 that is received by any agency, its head, or its employee must be immediately reported to the agency'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.**

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 agency's ethics officer.

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

One set of Ex Parte rules apply to all agencies that engage in rulemaking. Another set of Ex Parte rules apply only to certain agencies, listed below, that have particular roles in regulatory, quasi-adjudicatory, investment, and licensing matters. If you work for one of two dozen specific agencies, you may be covered by provisions of the Ethics Act which require that all parties to such matters be aware of all relevant communications between agency staff and other interested parties, and that the formal record document relevant communications with agency staff.

An Ex Parte communication from an interested party must be promptly memorialized and made part of the official record. An ex parte communication from anyone else shall be immediately reported to the ethics officer. As with the recent discussion of procurement communications, ex parte communications do not need to be specially reported when made at a formal hearing.

If you work for one of these agencies, and you receive an ex parte communication about a pending matter, you should make a thorough summary of the communication and give it to

your ethics officer. If the communication is from someone with a direct interest in the outcome, you should include your summary in the official report of your agency’s actions on the matter.

If you have questions about communications reporting, contact your ethics officer.

State agencies covered by Ex Parte Communications rules for regulatory, quasi-adjudicatory, investment, and licensing matters include:	
Civil Service Commission Court of Claims Department of Financial and Professional Regulation, Division of Professional Regulation professional licensing boards and Division of Banks and Real Estate licensing boards Department of Insurance Department of Public Health and licensing boards under the Department Department of State Police Merit Board Educational Labor Relations Board Executive Ethics Commission Health Facilities and Services Review Board Illinois Board of Investment Illinois Commerce Commission	Illinois Gaming Board Illinois Labor Relations Board Illinois Liquor Control Commission Illinois Purchased Care Review Board Illinois Racing Board Illinois Workers' Compensation Commission Motor Vehicle Review Board Pollution Control Board Prisoner Review Board Property Tax Appeal Board State Board of Elections State Employees Retirement System Board of Trustees State Universities Retirement System Board of Trustees Teachers Retirement System Officers Board of Trustees

**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 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, its head or an agency employee 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.

An ex parte communication received by an agency, its head, or an agency employee from **other than** an interested party or its representative must be reported to the agency’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.



## Memorializing Communications Lesson Review

### Scenario #7

Donna is a state employee and manages the competitive bidding process for her agency. She recently received an email from a business owner who asks if bids could be submitted in an email attachment.

Does Donna need to report this inquiry to anyone?

- A. Yes. Donna needs to report it to her agency's ethics officer.
- B. No, since the message was limited to matters of procedure and practice.
- C. Yes. Donna needs to report it to the Procurement Policy Board.

Select the best answer(s) and then compare your response to the explanation below.<sup>7</sup>

## Disclosure of Economic Interests

(Illinois Governmental Ethics Act, 5 ILCS 420 et seq., Executive Order 15-09)

Some state employees are required by law to annually file a statement of economic interests with the secretary of state by May 1 of each year.

Generally, the requirement to file statements of economic interests applies to, among others, compensated state 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;

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<sup>7</sup> The best response to Scenario #7 is B. In this instance, the business owner's communication was not material and need not be reported. If it had been material, 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 website: <http://pcrs.illinois.gov>.

- have responsibility with respect to 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 individuals who are required to file a statement. If you are required to file a statement of economic interests, the secretary of state will notify you on or before April 1 annually. 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](http://www.cyberdriveillinois.com/publications/pdf_publications/i188.pdf).

The information required by the statement of economic interests includes, for example, but is not limited to:

- 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 you have a question about a statement of economic interests, you may seek the advice of your state agency's ethics officer.

Under the terms of Executive Order 15-09, every state employee who is under the governor's jurisdiction and who is required to file the Statement of Economic Interests must file a Supplemental Statement of Interests. The Supplemental Statement is to be filed with the Executive Ethics Commission rather than the Secretary of State. The Supplemental Statement seeks answers to three questions addressing real property leased to the state; non-governmental positions and compensation; and litigation involving the state.

## Truthful Oral and Written Statements

“[Respondent] admitted that he falsified his Metra employment application when he indicated that he left [a previous employer] voluntarily.” (OEIG Case #16-01981)

– These are words from a publicly released OEIG investigative report regarding a Metra employee who provided false information on his employment application. The employee was discharged.

It is vital to the integrity of state government that all oral and written statements made by you, in your official capacity as a state employee, be made in what you 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 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 employment, and in some instances may result in criminal prosecution.

## State Agency Policies

“By taking no action and allowing fraud to persist for three years, [Respondent] condoned State benefits fraud in the performance of duties.” (OEIG Case #13-01684)

– These are words from a publicly released OEIG investigative report. The OEIG found that the state employee received and used medical benefits, to which she admitted she was not entitled. The employee resigned from the state position.

It is important that, as a state employee, you adhere to all applicable rules, including laws or policies that are unique to your state agency. State agency 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 your 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.

Please be aware that many state laws and rules are applicable to state employees even where their employment is temporary, seasonal, intermittent, or performed under a personal services contract.

It is important that you familiarize yourself with all the laws, regulations, and policies which apply to you, and that you abide by them. If necessary, you may ask your supervisor, private legal counsel, agency's legal counsel, or agency's ethics officer for guidance concerning those rules that apply to your employment by the state.

## Penalties

Penalties for violations of ethics-related laws, rules, and policies by state employees and appointees depend upon the specific circumstances. Penalties may include disciplinary 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. Penalties for revolving door violations may include assessments of up to three times a former state employee's post-state total annual compensation.

## Ethics Questions or Concerns

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

## Examples of the Ethical Obligations of State Employees

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

1. **Example:** A state supervisor has directed a subordinate to deliver campaign donations to a candidate for elective office on the subordinate's drive home.



**Ethical Assessment:** The law prohibits any state employee from intentionally misappropriating the services of any state employee by requiring that employee to perform any prohibited political activity as part of his or her state duties.

2. **Example:** A state employee regularly uses his state-issued laptop computer to post updates to his personal social media accounts.

**Ethical Assessment:** It is unethical and most likely a violation of state agency policy to misuse state resources for other than state business. Excessive personal use of a state computer may result in disciplinary action.

3. **Example:** While making hiring decisions, a state employee ignores her agency's policies intended to provide preference to military veterans.

**Ethical Assessment:** Bending or ignoring a state agency's policies, even in those instances where it does not benefit a state employee, family member, friend, or business associate, is both unethical and possibly illegal. Depending on the circumstances, the employee may be subject to disciplinary action or other penalties under the law.

4. **Example:** In order to avoid delaying its approval, a state employee authorized the issuance of a state grant in the absence of his supervisor, knowing that he did not have appropriate authority to do so. The employee did so because he was certain his boss would concur in his decision.

**Ethical Assessment:** It is unethical and unlawful for state employees to perform official acts, which they know they are not authorized to perform. In certain circumstances, doing so may be considered official misconduct and subject to criminal prosecution.

5. **Example:** 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.

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

**Ethical Assessment:** No former state employee 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.

7. **Example:** A state employee recommends that a coworker award a state grant to a vendor with whom the employee has a second job.

**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 herself.

8. **Example:** A state employee uses his office computer to send an email to several of his coworkers inviting them to work at a rally in support of a candidate for elective office outside of their state work day.

**Ethical Assessment:** Although the Ethics Act allows state employees to participate in political activities outside of their work hours or when using vacation, personal or compensatory time off, state employees may not do so at any time by misappropriating a state resource, such as using a state-owned computer or email account to, for example, solicit support for a campaign for elective office.

9. **Example:** 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 may 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.

10. **Example:** A state contractor offers to buy lunch for a state employee involved in evaluating contract bids.

**Ethical Assessment:** Under the Ethics Act, a person or entity that does business or seeks to do business with a state agency is considered a prohibited source. The employee may not accept a gift from a prohibited source unless one of the law's exceptions applies. In certain circumstances, acceptance of a meal offer may be allowable under the Ethics Act; however, acceptance of a meal may (depending on its value, for example) violate state agency policy or other laws and rules, including Executive Order 15-09. When in doubt, it's best for state employees to simply decline gifts offered to them in relation to their jobs.



## Acknowledgement of Participation in:

### 2018 Ethics Orientation for State of Illinois Employees

I certify that I have carefully read and reviewed the content of, and completed, the 2018 Ethics Orientation for State of Illinois Employees. Furthermore, I certify that I understand my failure to comply with the laws, rules, policies, and procedures referred to within this training course may result in disciplinary action up to and including termination of state employment/appointment, administrative fines, and possible criminal prosecution, depending on the nature of the violation.

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Signature

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Printed Name  
(first, middle initial, last)

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Month and Day of Birth  
(for example, July 15)

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Date

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State Agency Name  
(for example, Illinois Department of Labor)

(To be properly credited for participating in ethics training, please submit this form as directed by your state agency)

October 2017