

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: TROY CULBERTSON) OEIG Case #19-00003

PUBLICATION OF REDACTED VERSION OF OEIG FINAL REPORT

Below is the redacted final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. To balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, and to Troy Culbertson and Richard Gengenbacher’s last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

OEIG SUMMARY REPORT

I. SUMMARY OF THE ALLEGATIONS

On December 28, 2018, the Office of the Executive Inspector General for the Agencies of the Illinois Governor (OEIG) received a complaint alleging that Illinois Department of Veterans' Affairs (DVA) employees were improperly using State resources to advertise, sponsor, or facilitate fundraisers taking place at the Illinois Veterans' Home—Quincy (Quincy).¹

II. BACKGROUND

DVA administers a number of veterans' homes, which provide housing and long-term skilled care and services to veterans.² Quincy, located in Western Illinois, is the largest and oldest of these veterans' homes, with nearly 400 Illinois veterans residing there.³

DVA's Employee Handbook (DVA Handbook), which applies to Quincy employees, contains rules governing employee conduct, including rules prohibiting soliciting on State property. The soliciting rule states, in particular, "Fund raising for charitable purposes, ticket sales or other solicitations is not permitted on State property – no exceptions are granted. Canvassing, soliciting or collecting is forbidden."⁴

III. SUMMARY OF INVESTIGATION

A. Quincy Employee Fundraisers

During the course of this investigation, the OEIG learned that several fundraisers had taken place at Quincy for the benefit of Quincy employees and their families who had suffered tragic events. On March 25, 2019, OEIG investigators interviewed Richard Gengenbacher, who works at Quincy as the Director of Marketing. Mr. Gengenbacher's immediate supervisors are Director of Personnel Brittany Heinecke and Troy Culbertson, the Quincy Administrator. Mr. Gengenbacher described his job duties as running the employee recognition program, the in-house television station, and employee orientations, and overseeing the print shop and museum.

¹ The complaint also alleged that DVA Director of Marketing Richard Gengenbacher sent out emails notifying employees of a class by [University], titled "[Name of Class]," that would take place at Quincy and would be facilitated by Mr. Gengenbacher and [DVA Employee 10]. The OEIG investigated this issue and found no evidence that State employees received any money from this course, no evidence that State employees attended the class on State time, and Quincy Administrator Troy Culbertson authorized this class taking place at Quincy. While DVA policy states that email should be used only for State business, those interviewed, including Mr. Culbertson, believed that the use of State email to advertise the class was appropriate because it was meant to benefit employees as opposed to personal use. Although it may be more prudent to not use State email for these purposes, the OEIG finds that there is insufficient evidence of any violations based on the class being held at Quincy or promoted by Quincy employees, and thus this allegation is **UNFOUNDED**.

² <https://www2.illinois.gov/veterans/about-us/Pages/default.aspx> (last visited November 19, 2019).

³ <https://www2.illinois.gov/veterans/homes/Pages/Quincy.aspx> (last visited November 19, 2019).

⁴ DVA Handbook at 22, Soliciting.

Mr. Gengenbacher stated he was aware of fundraisers held for the benefit of other Quincy employees and their families, including:

- A fundraiser held in the summer of 2018, consisting of a lunch, bake sale, and silent auction, for the benefit of Quincy Nursing Assistant [DVA Employee 1] and her family, who [had a personal situation]. Mr. Gengenbacher thought the benefit raised a couple thousand dollars, but did not know who collected the money.
- A fundraiser held in approximately October 2018 for Quincy Registered Nurse [DVA Employee 2] after [a personal situation]. Mr. Gengenbacher believed the event consisted of a lunch, bake sale, auction, and collection. He said he believed the event raised a couple thousand dollars and that Quincy Support Services Administrator [DVA Employee 3] may have collected the money raised.
- A fundraiser held for Quincy Licensed Practical Nurse [DVA Employee 4], consisting of a lunch and an auction, after [a personal situation]. Mr. Gengenbacher does not know who collected the proceeds from this event.
- A fundraiser named “[DVA Employee 5] [Event]” held in early February 2019 in Quincy’s Smith Hall to benefit former Quincy Pharmacy Technician [DVA Employee 5], who [had a personal situation].

Mr. Gengenbacher said he promoted the fundraisers for [DVA Employee 1], [DVA Employee 2], [DVA Employee 4], and [DVA Employee 5] by creating flyers and by using his State email to promote the events. He also stated that he would have gotten either explicit or tacit approval by the administration for these events during executive staff meetings. Mr. Gengenbacher also said he was aware of fundraising events held for Quincy employees [DVA Employee 6] and [DVA Employee 7] to help with [personal situations]. Mr. Gengenbacher said that he maintains a list with the total amounts collected for each event but denied being personally involved in organizing or collecting money for these events.

The OEIG also interviewed Pharmacy Technician [DVA Employee 8] and Health Information Management Associate [DVA Employee 9], who, according to Mr. Gengenbacher, helped organize the [DVA Employee 5] [Event]; as well as “[DVA Employee 3], who helped organize a fundraising event for “[DVA Employee 2].⁵ Together, they provided the following information.

[DVA Employee 5] [E]vent Fundraiser

According to Mr. Gengenbacher, some of [DVA Employee 5]’s peers in the Pharmacy told him that they would like to raise \$2,000 to send [DVA Employee 5] [on a trip]. Mr. Gengenbacher acknowledged he made flyers for the event using State equipment and sent out several emails to

⁵ The OEIG separately interviewed [DVA Employee 9], [DVA Employee 8], and [DVA Employee 3] on August 29, 2019.

Quincy employees from his State account promoting the event.⁶ Mr. Gengenbacher said Mr. Culbertson was aware of this event and never told him not to do it.

[DVA Employee 9] and [DVA Employee 8], two of the [DVA Employee 5] [Event] organizers,⁷ confirmed that the event had a silent auction, which gave participants an opportunity to win prizes that others had donated if the tickets they purchased were chosen in the drawings. [DVA Employee 9] said there was also a separate donation jar.

Investigators also asked about the 50/50 raffle mentioned in the flyer promoting the [DVA Employee 5] [Event]. Only Mr. Gengenbacher confirmed that there may have been a 50/50 raffle at the event, but said he did not know for sure because he did not work at that benefit. [DVA Employee 8] responded that she was not aware of a 50/50 raffle at the [DVA Employee 5] [Event], while [DVA Employee 9] stated that no 50/50 raffle occurred at the event. When asked if Quincy or DVA had a license to conduct raffles or other games of chance pursuant to the Raffle Act, neither [DVA Employee 9] nor Mr. Gengenbacher were aware of such a license or the need for one.

Neither [DVA Employee 9] nor [DVA Employee 8] knew who collected the money for the [DVA Employee 5] [Event] fundraiser and both denied participating in the silent auction aspect of the event. [DVA Employee 9] said the total amount raised by the benefit was approximately \$4,000. Mr. Gengenbacher said he was told that \$4,500 was raised by the event but that he never saw the money. Mr. Gengenbacher said as far as he knew, all the proceeds were given to [DVA Employee 5] the day of the event, while [DVA Employee 9] said that the money raised was immediately given to [DVA Employee 5]'s sister.

[DVA Employee 9] told investigators that the benefit events were a relatively new thing over the last few years and that she attended one or two of these events. [DVA Employee 9] said she assumed it was Mr. Gengenbacher's responsibility to get proper approval, but she did not know if he did so. Similarly, [DVA Employee 8] said it was her understanding that the benefit was approved by the Quincy administration and said, "we did what we were supposed to do." She estimated there were approximately two similar events in the past year or more

Other Fundraising Events

[DVA Employee 3] confirmed that she helped organize the fundraiser for [DVA Employee 2], which raised approximately \$4,000. She said all fundraising events were approved by the administration and that Mr. Gengenbacher took care of the necessary approvals for all the benefit events. She also acknowledged that she collected the money for the [DVA Employee 2] fundraiser and gave it to Mr. Gengenbacher so he could give it to [DVA Employee 2].

⁶ The OEIG obtained a flyer that stated the "[DVA Employee 5] [Event]" benefit would take place on January 30, 2019 from 10:30 a.m. to 1:00 p.m. at Smith Hall on the Quincy campus and would include a bake sale and a \$5.00 lunch. The flyer noted that an auction would be conducted in which the organizers would sell tickets (one for \$1.00, or six tickets for \$5.00) for purchasers to drop in a container for items they wished to "bid" on. The flyer also mentioned a "50/50 drawing."

⁷ [DVA Employee 9] stated that Mr. Gengenbacher and [DVA Employee 8] were part of the team that organized the [DVA Employee 5] [Event], but [DVA Employee 8] denied that she helped organize the event.

[DVA Employee 3] estimated that starting in 2018, there have been five or six similar benefit events, which generally consisted of a silent auction, a meal, a bake sale, and donations. She said there was one event that had a 50/50 drawing where people bought tickets, a winning ticket was drawn, and the winner received half the pot (but may have donated the winnings back to the benefit). [DVA Employee 3] said she was somewhat familiar with the Raffle Act, though she did not know that the Act requires a license for raffles or games of chance, or whether Quincy or DVA had a raffle license. [DVA Employee 3] stated that Mr. Gengenbacher had documentation of how much money was collected from each event and was responsible for accounting for any money collected.

B. Interview of Troy Culbertson Regarding Employee Fundraisers

Mr. Culbertson, Quincy Administrator and Mr. Gengenbacher's immediate supervisor, stated that there had been at least five fundraisers for various Quincy employees over the course of 2018, all held at a restaurant on Quincy's campus. Mr. Culbertson stated that as the coordinator, Mr. Gengenbacher receives requests for events from employees, which then go to Mr. Culbertson for approval. Mr. Culbertson stated that he does not think Quincy has said no to any fundraisers proposed by Quincy staff and that he (Mr. Culbertson) would have approved these events during executive staff meetings. Mr. Culbertson said he believed the event for [DVA Employee 5] raised between \$3,500 and \$4,500, though he did not know who collected the proceeds for that fundraiser or any of the others.

Mr. Culbertson stated that each of the events were similar in terms of how they were promoted: three to four emails were sent out and posters were hung up advertising the events. He said most of these events were held over the lunch period—between 11 a.m. and 3 p.m. to catch two shifts. Mr. Culbertson stated he did not know about a 50/50 drawing occurring at any of the events, but he was generally aware that raffle tickets were used for what he called a silent auction. Mr. Culbertson stated raffle tickets were placed into certain buckets for the chance to win an item. Mr. Culbertson stated that Quincy does not have a raffle license, nor has he discussed the need for a raffle license with anyone. He added that most employees went during their lunch break and he did not believe employees worked these events on State time. He also stated that he did not approve anyone to work any of the events during their State working hours but acknowledged he did not audit payroll to make sure. He said that the events improved morale on campus and brought employees together.

When shown a copy of DVA's Soliciting policy, which prohibited employees from selling merchandise, fundraising for charitable purposes, or engaging in any other type of solicitation, Mr. Culbertson stated he did not realize the policy was so specific.⁸

⁸ The complainant also provided the OEIG an email with a flyer advertising the "IVH Biggest Loser Team Challenge" (the Challenge) in which teams, consisting of four Quincy employees, paid to take part in a competition judged on the basis of which team lost the most body weight over a 12-week period. The flyer advertised cash prizes going to the first, second, and third place teams. During his OEIG interview, Mr. Culbertson stated that he verbally approved this event. The OEIG is referring this matter to DVA for its consideration per DVA's "Soliciting" policy.

IV. ANALYSIS

DVA's "Soliciting" policy strictly prohibits fundraising for charitable purposes, ticket sales or other solicitations on State property and does not permit employees to sell merchandise while on duty. There are no exceptions to this policy, and "[c]anvassing, soliciting or collecting is forbidden."⁹

Here, all of the witnesses interviewed as part of the OEIG's investigation acknowledged that multiple fundraising events took place at Quincy, during which money was collected for charitable purposes. Mr. Culbertson, as the Quincy Administrator, approved the multiple fundraising events that were held on the Quincy campus. While Mr. Culbertson contended that the employees worked these events during their lunch breaks and thus were not on State time, there are no allowances for such activity even during breaks. DVA's policy prohibiting fundraising on State property explicitly states that "no exceptions are granted."

Furthermore, there is evidence that a 50/50 raffle and silent auctions were held as part of these events and if so, may violate the Illinois Raffles and Poker Runs Act (the Act), which stipulates that "[n]o person, firm or corporation shall conduct raffles or chances . . . without having first obtained a license therefor pursuant to this Act." 230 ILCS 15/3(1). The 50/50 raffle and silent auctions appear to fall under the definition of "raffle" as defined in the Act in that Quincy employees paid money for a chance to win cash or prizes, and "the winning chance [was] determined through a drawing" 230 ILCS 15/1(2). None of the individuals interviewed, including Mr. Gengenbacher and Mr. Culbertson, were aware of whether DVA or Quincy had such a license and it is doubtful that either DVA or Quincy, as part of a State government agency, would qualify for a raffle license had either applied.¹⁰

Although many Quincy employees were involved in running and organizing the fundraisers discussed in this Report, Mr. Culbertson admitted that he approved each of the employee benefit events discussed above. In his position as Quincy Administrator, Mr. Culbertson is tasked with knowing and enforcing the relevant policies. In this case, he allowed multiple events to take place that violated DVA's solicitation policy. Accordingly, the allegation that Mr. Culbertson engaged in mismanagement by allowing multiple events to take place that violated DVA's prohibition on soliciting is **FOUNDED**.¹¹

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDING:**

⁹ DVA Handbook at 22, Soliciting.

¹⁰ Although the OEIG has no doubt of the good intentions of the individuals who were involved with these events, it should be noted that the implementation of these events raised some concerns. For example, none of the Quincy employees interviewed who admitted to being involved in planning, promoting, or approving the fundraising events knew who was responsible for collecting the proceeds and how they were accounted for and distributed.

¹¹ The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

- **FOUNDED** – Quincy Administrator Troy Culbertson engaged in mismanagement by approving fundraisers that took place at Quincy in violation of DVA’s solicitation policy.

Based on these findings, the OEIG recommends that DVA take whatever action it deems appropriate with respect to Mr. Culbertson. The OEIG also recommends that DVA revisit its current policies related to the use of State resources for charitable fundraising to ensure that any future benefit events are operated in accordance with all applicable laws and regulations, and to ensure employees receive proper guidance on such.

No further investigative action is needed, and this case is considered closed.

Date: November 26, 2019

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington Street, Ste. 3400
Chicago, IL 60602

By: **Jeffrey Freeman**
Assistant Inspector General #159

Mark Garst
Investigator #127

**AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY
RESPONSE FORM**

Case Number: 19-00003

Return 20 Days After Receipt

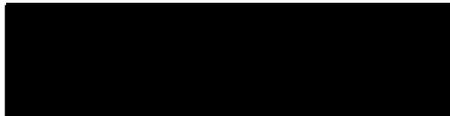
Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

We will implement some or all of the OEIG recommendations but will require additional time to do so.
We will report to OEIG within 90 days from the original return date.

DVA has the attached training that will be implemented for all the homes and completed by March 2020. IVHQ will be the first home in which the training will be provided. Additionally, DVA will review its Solicitation policy to determine if it needs to be further clarified. DVA will implement progressive discipline.

We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:



Signature

IOVA Director

Print Agency and Job Title

Linda Chapa Loria

Print Name

12/16/19

Date

State of Illinois Ethics: Gifts, Donations, and Fundraisers

The Gift Ban Act

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.

The Gift Ban Act

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.**

The Gift Ban Act

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.

The Gift Ban Act

- **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.

The Gift Ban Act

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 (see changes under Executive Order 15-09*);
- 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.

The Gift Ban Act

- *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.

The Gift Ban Act

- 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.

The Gift Ban Act

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.

The Gift Ban Act

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.

When in doubt, ask legal.

SECA: 5 ILCS 340/6

Pursuant to the provision of Section 5, rules shall be promulgated which establish a period between September 1 and November 30 during which all qualified organizations and United Funds shall be permitted to solicit State employees for voluntary contributions at their places of work. However, State and university employees hired at any time after the official 8-week campaign period may make voluntary contributions through payroll withholding. The informational materials from the immediately prior SECA campaign period may be provided to each such employee.

No organization shall solicit State employees for contributions at their places of work, except pursuant to the provisions of this Act and the rules promulgated thereunder.

IDVA Policy PER-043 Solicitation of Employees

The Illinois Department of Veterans' Affairs (IDVA) will:

- A. Strictly adhere to statutes regarding employee participation in, and exposure to, solicitation of funds or support for charitable, political, or commercial purposes;
- B. Preserve the confidentiality of employees' names, addresses, telephone numbers, and work locations when being sought for commercial solicitation purposes;
- C. Allow only those vendors approved by statute, the Department of Central Management Services, or the Director of the IDVA to sell, or offer for sale, goods, or canvas or solicit for any purposes. Facility Manager Authority is limited to those items that serve the daily needs of facility employees, and users, i.e., food, drink, personal use items; and
- D. Participate in the annual State and University Employees Combined Appeal (SECA).

IDVA Policy PER-043 Solicitation of Employees

Procedure

- A. Solicitation for any charitable purpose of IDVA employees at IDV A facilities is governed by the laws and regulations relating to the annual SECA solicitation.
- B. Questions concerning what activities are permitted will be directed to the Director's Office.
- C. All charitable-solicitation activities involving IDVA employees at IDVA facilities, or using IDVA communications (including e-mail), must receive prior approval from the Director.
- D. Political solicitation
 - 1) Solicitation of IDV A employees at IDV A facilities for political purpose is prohibited.
 - 2) Political solicitation is addressed in directive PER-041, "Political Activity."

Illinois Raffles and Poker Runs Act 230 ILCS 15/1

- Illinois Raffles and Poker Runs Act (the Act), stipulates that “[n]o person, firm or corporation shall conduct raffles or chances . . . without having first obtained a license therefore pursuant to this Act.” 230 ILCS 15/3(1).
- 50/50 raffles and silent auctions fall under the definition of “raffle” as defined in the Act. Employees paying money for a chance to win cash or prizes, and “the winning chance [is] determined through a drawing” 230 ILCS 15/1(2).

Member Benefit Fund

- The administrator of each Veterans Home shall establish a locally-held member's benefits fund. The Director may authorize the Veterans Home to conduct limited fundraising in accordance with applicable laws and regulations for which the sole purpose is to benefit the Veterans Home's member's benefits fund. Revenues accruing to an Illinois Veterans Home, including any donations, grants for the operation of the Home, profits from commissary stores, and funds received from any individual or other source, including limited fundraising, shall be deposited into that Home's benefits fund. Expenditures from the benefits funds shall be solely for the special comfort, pleasure, and amusement of residents. Contributors of unsolicited private donations may specify the purpose for which the private donations are to be used. 20 ILCS 2805/2.04

Hypothetical 1

- Quincy employee Tom is involved in a local nonprofit organization. The organization is having a fundraiser at a nearby restaurant this weekend. Tom would like to use his State of Illinois Employee Email account to send an email to other Quincy employees to notify them about the event. Can Tom send this email?

Hypothetical 1

- No, per Illinois Law and IDVA rules, Tom may not use his State employee to promote or solicit money or attendance from his co-workers.

Hypothetical 2 (a)

- Quincy employee Steve would like to put together a weight loss competition. The goal of the competition is to lose weight but to incentivize the participants, Steve asks that every employee pay 5 dollars and the winner gets to keep the money. Can Steve ask for money from employees participating in the contest?

Hypothetical 2 (a)

- No, per Illinois Law and IDVA rules, Steve may not solicit from his co-workers on State Property.

Hypothetical 2 (b)

- Same fact scenario as before, except instead of keeping the money, the money will be donated to the charity of the winner's choice. With this change, can Steve ask for money from the participants?

Hypothetical 2 (b)

- No, this remains a solicitation.

Hypothetical 3

- A limited fundraiser for the member benefit fund has been approved by both the Director and the Home Administrator. Quincy employee Karen would like to add a 50/50 raffle to the event. Can Karen add this to the event?

Hypothetical 3

- No, per Illinois law, a 50/50 raffle is considered gambling. IDVA does not have a gaming license.

Hypothetical 4

- American Airlines is hosting a Veterans' event and has invited Quincy employee Molly to attend. American Airlines has offered to pay for Molly's hotel, airfare, and food during this event. Can Molly accept any of the offered expenses?

Hypothetical 4

- It depends. American Airlines is a registered lobbyist and is therefore a Prohibited Source. Molly must absolutely decline the airfare and hotel accommodations. Under Illinois law, Molly may have been able to accept food up to 75 dollars in value, however under the executive order, that amount is reduced to de minimus. Therefore, Molly may be allowed to accept a meal if it is of negligible value. However, the safe choice here is to decline all offers of value.

Hypothetical 5

- A Quincy resident has passed away from old age. The family knew that the resident was always particularly happy about the care he received from Quincy employee Emily. To thank Emily, the family has sent her a 100 dollar amazon gift card. Can Emily accept the gift card?

Hypothetical 5

- Probably not. While it is highly unlikely that the resident's family is a prohibited source, Emily should avoid the appearance of an improper gift. As discussed, 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. In this scenario, Emily should return the gift to the giver; or give the gift or an amount of equal value to an appropriate tax exempt charity.

QUESTIONS?



STATE OF ILLINOIS
DEPARTMENT OF VETERANS' AFFAIRS

George W. Dunne Cook County Office Building, 69 West Washington Street, Suite 1620,
Chicago, Illinois 60602
Telephone: (312) 814-2460 * Fax: (312) 814-2764

JB PRITZKER
GOVERNOR

LINDA CHAPA LAVIA
DIRECTOR

March 23, 2020

Office of Executive Inspector General
for the Agencies of the Illinois Governor
Attn: Fallon Opperman
69 W. Washington, Suite 3400
Chicago, Illinois 60602

VIA EMAIL

Re: Updated Response for OEIG Complaint No. 19-00003

Dear Ms. Opperman:

This letter is to update our response to OEIG Complaint No. 19-00003. IDVA General Counsel and Deputy General Counsel conducted an in-person training at IVHQ on March 4, 2020, with the executive staff. This training focused on ethics related to solicitation, fundraising, and the Gift Ban Act. It also covered statutes, internal policies, and general best practices. The training was conducted for the other three Illinois Veterans' Homes through video conference on March 9, 2020. A copy of this training was e-mailed to you on December 17, 2019, and is attached for your reference.

We have reviewed our solicitation policy, and we are working on updating it based on the training we did. We will need to update our handbook as well. Our HR Manager position was vacant from October 2019, until March 2, 2020, so that caused some delays.

As to discipline, Troy Culbertson received a counseling for this on January 22, 2020. It was determined to be an appropriate discipline for Mr. Culbertson as he did not have prior discipline. Based on the circumstances, it did not appear there was a willful disregard of the rules. The intent was to help co-workers, but it was not implemented in accordance with the current rules in place. Additionally, we plan on addressing this

issue with Rick Gengenbacher as well, but we don't know for sure when this will occur due to the current circumstances. We will provide an update once that occurs.

If you have further questions, please feel free to contact our General Counsel, Brittany Hawkins, at (217) 782-6641. Thank you for assistance with this matter.

Sincerely,

A solid black rectangular redaction box covering the signature of Linda Chapa LaVia.

Linda Chapa LaVia
IDVA Director

State of Illinois Ethics: Gifts, Donations, and Fundraisers

The Gift Ban Act

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.

The Gift Ban Act

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.**

The Gift Ban Act

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.

The Gift Ban Act

- **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.

The Gift Ban Act

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 (see changes under Executive Order 15-09*);
- 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.

The Gift Ban Act

- *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.

The Gift Ban Act

- 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.

The Gift Ban Act

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.

The Gift Ban Act

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.

When in doubt, ask legal.

SECA: 5 ILCS 340/6

Pursuant to the provision of Section 5, rules shall be promulgated which establish a period between September 1 and November 30 during which all qualified organizations and United Funds shall be permitted to solicit State employees for voluntary contributions at their places of work. However, State and university employees hired at any time after the official 8-week campaign period may make voluntary contributions through payroll withholding. The informational materials from the immediately prior SECA campaign period may be provided to each such employee.

No organization shall solicit State employees for contributions at their places of work, except pursuant to the provisions of this Act and the rules promulgated thereunder.

IDVA Policy PER-043 Solicitation of Employees

The Illinois Department of Veterans' Affairs (IDVA) will:

- A. Strictly adhere to statutes regarding employee participation in, and exposure to, solicitation of funds or support for charitable, political, or commercial purposes;
- B. Preserve the confidentiality of employees' names, addresses, telephone numbers, and work locations when being sought for commercial solicitation purposes;
- C. Allow only those vendors approved by statute, the Department of Central Management Services, or the Director of the IDVA to sell, or offer for sale, goods, or canvas or solicit for any purposes. Facility Manager Authority is limited to those items that serve the daily needs of facility employees, and users, i.e., food, drink, personal use items; and
- D. Participate in the annual State and University Employees Combined Appeal (SECA).

IDVA Policy PER-043 Solicitation of Employees

Procedure

- A. Solicitation for any charitable purpose of IDVA employees at IDV A facilities is governed by the laws and regulations relating to the annual SECA solicitation.
- B. Questions concerning what activities are permitted will be directed to the Director's Office.
- C. All charitable-solicitation activities involving IDVA employees at IDVA facilities, or using IDVA communications (including e-mail), must receive prior approval from the Director.
- D. Political solicitation
 - 1) Solicitation of IDV A employees at IDV A facilities for political purpose is prohibited.
 - 2) Political solicitation is addressed in directive PER-041, "Political Activity."

Illinois Raffles and Poker Runs Act 230 ILCS 15/1

- Illinois Raffles and Poker Runs Act (the Act), stipulates that “[n]o person, firm or corporation shall conduct raffles or chances . . . without having first obtained a license therefore pursuant to this Act.” 230 ILCS 15/3(1).
- 50/50 raffles and silent auctions fall under the definition of “raffle” as defined in the Act. Employees paying money for a chance to win cash or prizes, and “the winning chance [is] determined through a drawing” 230 ILCS 15/1(2).

Member Benefit Fund

- The administrator of each Veterans Home shall establish a locally-held member's benefits fund. The Director may authorize the Veterans Home to conduct limited fundraising in accordance with applicable laws and regulations for which the sole purpose is to benefit the Veterans Home's member's benefits fund. Revenues accruing to an Illinois Veterans Home, including any donations, grants for the operation of the Home, profits from commissary stores, and funds received from any individual or other source, including limited fundraising, shall be deposited into that Home's benefits fund. Expenditures from the benefits funds shall be solely for the special comfort, pleasure, and amusement of residents. Contributors of unsolicited private donations may specify the purpose for which the private donations are to be used. 20 ILCS 2805/2.04

Hypothetical 1

- Quincy employee Tom is involved in a local nonprofit organization. The organization is having a fundraiser at a nearby restaurant this weekend. Tom would like to use his State of Illinois Employee Email account to send an email to other Quincy employees to notify them about the event. Can Tom send this email?

Hypothetical 1

- No, per Illinois Law and IDVA rules, Tom may not use his State employee to promote or solicit money or attendance from his co-workers.

Hypothetical 2 (a)

- Quincy employee Steve would like to put together a weight loss competition. The goal of the competition is to lose weight but to incentivize the participants, Steve asks that every employee pay 5 dollars and the winner gets to keep the money. Can Steve ask for money from employees participating in the contest?

Hypothetical 2 (a)

- No, per Illinois Law and IDVA rules, Steve may not solicit from his co-workers on State Property.

Hypothetical 2 (b)

- Same fact scenario as before, except instead of keeping the money, the money will be donated to the charity of the winner's choice. With this change, can Steve ask for money from the participants?

Hypothetical 2 (b)

- No, this remains a solicitation.

Hypothetical 3

- A limited fundraiser for the member benefit fund has been approved by both the Director and the Home Administrator. Quincy employee Karen would like to add a 50/50 raffle to the event. Can Karen add this to the event?

Hypothetical 3

- No, per Illinois law, a 50/50 raffle is considered gambling. IDVA does not have a gaming license.

Hypothetical 4

- American Airlines is hosting a Veterans' event and has invited Quincy employee Molly to attend. American Airlines has offered to pay for Molly's hotel, airfare, and food during this event. Can Molly accept any of the offered expenses?

Hypothetical 4

- It depends. American Airlines is a registered lobbyist and is therefore a Prohibited Source. Molly must absolutely decline the airfare and hotel accommodations. Under Illinois law, Molly may have been able to accept food up to 75 dollars in value, however under the executive order, that amount is reduced to de minimus. Therefore, Molly may be allowed to accept a meal if it is of negligible value. However, the safe choice here is to decline all offers of value.

Hypothetical 5

- A Quincy resident has passed away from old age. The family knew that the resident was always particularly happy about the care he received from Quincy employee Emily. To thank Emily, the family has sent her a 100 dollar amazon gift card. Can Emily accept the gift card?

Hypothetical 5

- Probably not. While it is highly unlikely that the resident's family is a prohibited source, Emily should avoid the appearance of an improper gift. As discussed, 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. In this scenario, Emily should return the gift to the giver; or give the gift or an amount of equal value to an appropriate tax exempt charity.

QUESTIONS?



OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR
69 WEST WASHINGTON STREET, SUITE 3400
CHICAGO, ILLINOIS 60602
(312) 814-5600

September 11, 2020

Via Electronic Mail

Michelle Casey
Executive Director
Executive Ethics Commission
515 William Stratton Building
Springfield, IL 62706

Re: Agency Response Updates

Dear Executive Director Casey:

In response to your August 25, 2020 letter, below is a summary of information obtained from agencies regarding some of the cases you requested updates on. If an agency provided a substantive and/or final response, it has been attached to this letter. If the agency merely indicated that discipline was still pending, we only summarized that information below.

The redacted information relates to other case files that are unrelated to OEIG Case No. 19-00003.

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Culbertson, 19-00003

On September 3, 2020, DVA informed us that Mr. Gengenbacher was counseled and the matter is now considered closed. This letter is attached.

The redacted information relates to other case files that are unrelated to OEIG Case No. 19-00003.

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We will continue to forward you updates to the other cases as we get them in. If you have any questions, I can currently be reached at (312) 882-2897.

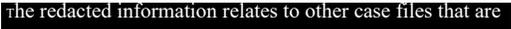
Sincerely,

Susan M. Haling
Executive Inspector General

By: 
Fallon Opperman
Deputy Inspector General & Chief

cc: Alexa Elam, via email at alexa.c.elam@illinois.gov

Encl: Agency responses for the following OEIG cases:

-  The redacted information relates to other case files that are
-  unrelated to OEIG Case No. 19-00003.
- September 3, 2020 letter regarding 19-00003



STATE OF ILLINOIS
DEPARTMENT OF VETERANS' AFFAIRS

George W. Dunne Cook County Office Building, 69 West Washington Street, Suite 1620,
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Telephone: (312) 814-2460 * Fax: (312) 814-2764

JB PRITZKER
GOVERNOR

LINDA CHAPA LAVIA
DIRECTOR

September 3, 2020

Office of Executive Inspector General
for the Agencies of the Illinois Governor
Attn: Fallon Opperman
69 W. Washington, Suite 3400
Chicago, Illinois 60602

VIA EMAIL

Re: Updated Response for OEIG Complaint No. 19-00003

Dear Ms. Opperman:

This letter is to update our response letter dated March 23, 2020 regarding OEIG Complaint No. 19-00003.

As an update, Rick Gengenbacher received a counseling for the issues of 19-00003 on May 15, 2020. It was determined to be an appropriate discipline for Mr. Gengenbacher as he did not have prior discipline. Based on the circumstances, it did not appear there was a willful disregard of the rules. The intent was to help co-workers, but it was not implemented in accordance with the current rules in place.

If you have further questions, please feel free to contact our Deputy General Counsel, Matt Eddington, at (312) 814-1661. Thank you for assistance with this matter.

Sincerely,

A black rectangular redaction box covering the signature of Linda Chapa LaVia.

Linda Chapa LaVia
IDVA Director