

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

IN RE: AGURANN BATES, )  
 )  
 ) No. 19-EEC-001  
 )  
 ) Appeal of OEIG  
 ) Revolving Door  
 ) Determination

DECISION

This cause is before the Executive Ethics Commission (“Commission”) on appeal by Agurann Bates (“Appellant”) from a determination by the Office of the Executive Inspector General for Agencies of the Illinois Governor (“OEIG”). Appellant appears pro se. The Office of the Attorney General is represented by Assistant Attorney General Neil MacDonald.

FINDINGS OF FACT

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of (i) Agurann Bates’ July 9, 2018 appeal of an OEIG Revolving Door “Restricted” determination, (ii), the Office of the Attorney General’s July 13, 2018 Objection, and (iii) Agurann Bates’ July 16, 2018 reply.

Based upon this record, the Commission makes the following findings of fact:

1. At all times relevant to this matter, Agurann Bates (“Bates” or “Appellant”) was an employee of the Illinois State Board of Education (ISBE), serving as a Principal Consultant.
2. In this role, Appellant’s duties include participating in the process of approving applications submitted by Illinois school districts seeking federal funding allocated under Title I (children of low-income families), Title II (teacher preparation and improvement), and Title IV-A (direct student support).
3. As one of a team of consultants, Appellant’s responsibilities included reviewing federal grant applications and support documentation to ensure that all of these materials were complete and correct. Her most recent supervisor explained that Appellant reviewed the application materials to determine whether the proposed funding was “allowable pursuant to the grant guidelines.” Appellant’s former supervisor similarly stated that Ms. Bates “does not award grants, but that [she] approves school district applications that meet the formula requirements;” was “responsible for approving or disapproving the applications;” and that her supervisors “do spot checks of approved applications but . . . do not review every application.” Finally, Appellant was responsible for providing technical assistance, information, and guidance in understanding and adhering to the standards imposed by the Every Student Succeeds Act and other applicable legislation.

4. ISBE identified Appellant as an employee, who, by the nature of her duties, has the authority to participate personally and substantially in licensing or regulatory decisions, thereby subjecting her to revolving door restrictions found at 5 ILCS 430/5-45(c).
5. At all times relevant to this appeal, Dolton School District No. 149 (“Dolton”) was an Illinois public school district that applied for and received Title grant funding through ISBE.
6. On February 8, 2018, Appellant approved a Title grant application submitted by Dolton that was allocated as follows: \$2,367,729 in Title 1 funding, \$190,280 in Title II funding, and \$38,404 in Title IV funding. After the grant was reviewed by a more senior reviewer, it was returned to Appellant on May 16, 2018, for changes to rectify budget items that both she and a second-level reviewer should not have allowed.
7. On June 18, 2018, Appellant submitted to OEIG an RD review request seeking approval of an offer from Dolton to become its Director of Grants.
8. On June 29, 2018, OEIG notified Appellant that she had been deemed “restricted” from accepting Dolton’s offer. More particularly, OEIG explained that the reason for the denial was her “personal and substantial participation in the award of State contracts with a cumulative value of \$25,000 to the District, specifically your approval of the award of Title I, II, and IV grants administered by the Illinois State Board of Education on February 8, 2018.
9. In accordance with 5 ILCS 430/5-45(g), the Executive Ethics Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

#### CONCLUSIONS OF LAW

1. An Executive Inspector General’s determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. Appellant’s appeal of the OEIG’s June 29, 2018 revolving door determination is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (a) of the revolving door section of the State Officials and Employees Ethics Act provides:
  - (a) No former officer, member, or State employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive

compensation or fees for services from a person or entity if the officer, member, or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in the award of State contracts, or the issuance of State contract change orders, with a cumulative value of \$25,000 or more to the person or entity, or its parent or subsidiary.

5 ILCS 430/5-45(a)

4. Appellant is subject to 5 ILCS 430/5-45(c), since, by the nature of her duties, she may have the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions.
5. Subsection (f) of the revolving door section of the State Officials and Employees Ethics Act provides:

Any State employee in a position subject to the policies required by subsection (c) or to a determination under subsection (d), but who does not fall within the prohibition of subsection (h) below, who is offered non-State employment during State employment or within a period of one year immediately after termination of State employment shall, prior to accepting such non-State employment, notify the appropriate Inspector General. Within 10 calendar days after receiving notification from an employee in a position subject to the policies required by subsection (c), such Inspector General shall make a determination as to whether the State employee is restricted from accepting such employment by subsection (a) or (b)... A determination by an Inspector General must be in writing, signed and dated by the Inspector General, and delivered to the subject of the determination within 10 calendar days or the person is deemed eligible for the employment opportunity.

5 ILCS 430/5-45(f).

6. Subsection (g) of the same section provides:

(g)...In deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission or Auditor General shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based on the totality of the participation by the former officer, member, or State employee in those decisions.

5 ILCS 430/5-45(g)

7. A State employee may be personally and substantially involved in the award of State contracts even though he or she was not the final decision maker.

8. During the previous year, Appellant was personally and substantially involved award of State contracts with respect to her prospective employer on two occasions:
  - a. First, On February 8, 2018, Appellant approved a Title grant application submitted by Dolton that was allocated as follows: \$2,367,729 in Title 1 funding, \$190,280 in Title II funding, and \$38,404 in Title IV funding, and
  - b. Second, on May 16, 2018 after the grant was reviewed by a more senior reviewer, it was returned to Appellant on for changes to rectify budget items that both she and a second-level reviewer should not have allowed.
  
9. Considering all relevant information and the effect of the prospective employment upon the regulatory or licensing decisions referred to in subsection (b) of 5 ILCS 430/5-45, based upon the totality of the participation by the employee in those decisions, the Commission finds that Appellant Agurann Bates participated personally and substantially in awarding contracts to her prospective employment, within one year of her proposed termination of State employment.

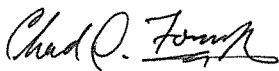
Appellant's impassioned plea to the Commission notes that there have been other ISBE employees who have been allowed to leave and accept other employment. Appellant also argues that she has been treated unfairly by supervisors. These issues are not presently before the Commission, but the Commission encourages Appellant to raise these issues to the OEIG. Furthermore, nothing in this decision suggests that Appellant has acted improperly in any way toward ISBE or Dolton School District.

WHEREFORE, for the foregoing reasons, the Commission affirms the Office of the Executive Inspector General's June 29, 2018 determination and rejects this appeal. Ms. Agurann Bates may not pursue her employment opportunity with Dolton School District.

SO ORDERED.

DATE: July 19, 2018

The Executive Ethics Commission

By:   
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Chad D. Fornoff  
Administrative Law Judge  
Executive Director