



ETHICS TRAINING

for Appointees and Employees of State of Illinois Boards

January 2006

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Office of Executive Inspector General
for the Agencies of the Illinois Governor

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Introduction/General Principles

All state employees and elected officials are expected to work on behalf of the state in a manner that always complies with laws, rules, regulations and policies. By doing so and by always acting with honesty and integrity they allow established values to guide their actions and decisions. That is what it means to follow the principles of *ethics*.

The actions and conduct of state employees and officials are essential to maintaining the public's trust in state government. Therefore, in addition to acting with honesty and integrity, state employees must always use state provided resources in the most productive and efficient way possible and only in support of the work of state government. They must avoid placing their personal or financial interests in conflict with those of the state. Furthermore, it is their duty to report any violation of laws, rules, regulations and policies that they become aware of as a state worker.

These same expectations apply to you as an employee or appointee of a state board, commission, authority or task force (i.e., a "state board"). The appointees to state boards and the state employees that support them are often called upon to make decisions with far-reaching economic and social consequences for the citizens of Illinois. As a result, it is essential that you become aware of laws, rules, regulations and policies that apply to your conduct as a state board employee or appointee.

Among the laws and rules that apply to you is the State Officials and Employees Ethics Act (5 ILCS 430), which became law in December 2003. The Ethics Act applies to full-time, part-time, temporary and seasonal employees, as well as to appointees and state officials. It also applies to contract workers. For purposes of the Ethics Act, the term "state employee" is defined to include all appointees.

The Ethics Act contains rules to guide the conduct of state employees, appointees and officials. For example, as a state employee, you are restricted from accepting certain gifts from certain specific "prohibited" sources. There are also restrictions that prevent you from participating in specific political activities during your state workday, unless you use your vacation or personal leave time. In addition, the Ethics Act prohibits you from using state property or resources to conduct or support certain specific political activities. The text of the entire Ethics Act, is available at www.inspectorgeneral.illinois.gov

The information that follows is intended to make you aware of selected elements of the Ethics Act and other laws and rules that relate to the ethical conduct of state employees and appointees. In addition to becoming familiar with this material, it is important that you review the rules that may be specific to your state board. If you have questions concerning ethics-related matters, each state board has an Ethics Officer who can provide answers to you and who, by law, is there to provide guidance to you in the interpretation and implementation of the Ethics Act.

Executive Ethics Commission

Established in 2004, the Executive Ethics Commission, 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 and employees of state agencies under the control of the five constitutional officers of the state. For further information about the Executive Ethics Commission, visit its website at www.eec.illinois.gov

Ethics Training (from Ethics Act, Section 5-10)

Like other state officials and employees, state board employees and appointees must complete ethics training on an annual basis. *Your state board will notify you and provide instructions to you concerning when and how to participate in annual ethics training (by carefully reading and reviewing the material in this package and signing the attached Acknowledgement form you are completing this training for the current year).*

All new state board employees and appointees must complete ethics training within six months of their first day of employment or appointment.

Personnel Policies (from Ethics Act, Section 5-5)

State employees are required to follow the personnel policies of their state agency or state board. These policies must include requirements related to:

- Work time.
- Documentation of time worked/time sheets.
- Documentation for reimbursement for travel on official state business.
- Compensation.
- Earning and accrual of state benefits for those state employees eligible for benefits.

As a state board employee or appointee, you are expected to adhere to applicable board personnel policies.

Time Sheets (from Ethics Act, Section 5-5)

Each state agency, including each state board, shall require all employees to periodically submit time sheets. An employee's time sheet must document, to the nearest quarter hour, the time spent each day on official state business. Time sheets may be maintained on paper or in electronic format. *As a state board employee or appointee, you are expected to accurately report the hours that you work for the state, on a timely basis, as directed by your state board.*

Conflicts of Interest

It is unethical for a state board employee or appointee to place his or her interests or those of a friend, relative or business associate, above those of the state. This is what is meant by a conflict of interest. *Because of the importance of the functions of state boards, it is important that state board employees and appointees avoid even the appearance of a conflict of interest.*

Preexisting, potential or real conflicts of interest should be disclosed to the state by state board employees and appointees during the hiring/appointment process. *For example, a prospective appointee to a state board with responsibility for regulating a certain industry should disclose current or prior relationships with a business that is subject to the board's regulation. Specifically, for example, it would be unethical for a prospective board appointee to not disclose a financial interest in a business subject to the board's oversight.*

Potential or real conflicts of interest that arise or become known during the course of an individual's employment or appointment should be disclosed to the board's Ethics Officer, chairperson and "Executive Director" at the earliest opportunity, in order to determine the most appropriate course of action. This may include, for example, the need for a board appointee to recuse him or herself from certain board activities that are related to the conflict.

It is unethical for board employees and appointees to use information made available to them through their official duties and which is not generally known to the public, to benefit themselves, their friends, their family, or business associates. *For example it would be inappropriate for a board member to provide confidential information concerning a competitive bidding process for a state contract to a company owned by a personal friend that plans to submit a contract bid.*

All state business decisions, regulatory findings and rulemaking, granting of licenses, etc., made by state boards must be made in the best interests of the state and must be made in a manner that is consistent with applicable laws, rules, regulations and policies. *The personal interests of state board employees and appointees, or those of their family, friends or business associates must not be a consideration in such decisions.*

Prohibited Political Activities (from Ethics Act, Section 5-15)

A state board employee or appointee cannot participate in any of the following activities while acting, or appearing to act, in their capacity as a board employee or appointee or while conducting state business. If a state employee elects to take part in any of these activities during normal work hours, then he or she must use vacation, personal or compensatory time off. A state board employee or appointee may never engage in any of these activities using work facilities (such as state office telephones, state cell phones, photocopiers, or computers):

- Prepare for, organize, or participate in any political meeting, political rally, political demonstration, or other political event. *For example, a board employee cannot send an email to fellow workers during work hours and/or using a state email account, 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. *For example, it is unlawful for a state board employee to ask coworkers, during the workday, for donations in support of someone running for political office.*
- 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, on behalf of a political organization for political purposes, or for or against a referendum.
- 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, on behalf of a political organization, or for or against a referendum. *For example, it is unlawful for a state board employee, during his or her 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, political candidate, or referendum question.
- Solicit votes on behalf of a candidate, political organization, or for or against a referendum, or help in an effort to get voters to the polls or participate in a vote recount on behalf of a candidate or political organization.
- Initiate, 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. *For example, it is unlawful for a state board employee to donate money, during work hours, to a coworker who is running for elective office.*
- Prepare or review responses to candidates' questionnaires.
- Distribute or prepare 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 a referendum.
- Manage or work on a campaign for elective office or for or against a referendum.
- Perform work related to serving as a delegate, alternate, or proxy to a political party convention.

Political Contributions on State Property (from Ethics Act, Section 5-35)

Political campaign contributions cannot be intentionally solicited, accepted, offered or made on state property. *State property includes, for example, buildings or portions thereof that are owned or exclusively leased by the state. Therefore, it is unlawful for a state board employee or appointee to give or receive money for a candidate for public office while in state owned or leased office space or on state property.*

Ban on Gifts from Prohibited Sources (from Ethics Act, Section 10-10, 10-15 and 10-30)

In many instances, it is unlawful for a state board employee or appointee to accept gifts that are offered to them in their capacity as a state board employee or appointee or in the conduct of state business. Gifts may include, but are not limited to such things as free tickets to sporting events, cash, special discounted merchandise or services, food, drink and travel expenses.

A state board employee or appointee cannot solicit or accept a gift from certain individuals or entities that are defined by law as a “prohibited source”. It is also unlawful for an employee or appointee’s spouse or immediate family member living with them, to accept a gift from a prohibited source. The following are prohibited sources and thus, a state board employee or appointee cannot generally accept a gift from:

- A person or entity (*a business, for example*) seeking official action from the state board employee/appointee or the employee/appointee’s state board.
- A person or entity that does business or seeks to do business with the state board.
- A person or entity that conducts activities that are regulated by the employee/appointee of the state board.
- A person or entity that has interests that may be substantially affected by the performance or non-performance of the state board employee or appointee.
- A person or entity that is a registered lobbyist.

There are 12 specific exceptions to this ban on gifts from prohibited sources, including:

- Opportunities, benefits and services available to the general public on the same terms.
- Anything for which the employee paid market value.
- A lawful contribution under the Election Code.
- Educational materials and missions.
- Travel expenses for a meeting to discuss state business.
- A gift from a relative.
- Anything provided on the basis of personal friendship.
- Food or drink that does not exceed \$75 per calendar day.
- Food, drink, lodging and transportation related to outside business, employment or activities, if the benefits are customarily provided to others in similar circumstances.
- Intra-governmental or inter-governmental gifts (e.g. gifts between agency employees or between government employees).
- Bequests, inheritances, and other transfers at death.
- Any item or items from any one prohibited source during any calendar year that has a cumulative total value of less than \$100.

If a state board employee or appointee receives an improper gift from a prohibited source, she or he can correct the situation and not be in violation of the ban if she or he immediately does any of the following:

- Returns the gift to the giver.
- Gives the gift to a not-for-profit organization, a 501(c)(3) organization.
- Gives an amount of equal value to a not-for-profit organization, 501(c)(3) organization.

Any gift that is intended to improperly influence an employee or appointee's official conduct must not be accepted. Questions that a state board employee or appointee may have related to gifts received in their capacity as a board employee/appointee or while conducting state business, should be referred to their board's Ethics Officer.

Prohibited Offer or Promise (from Ethics Act, Section 5-30)

A state board employee or appointee cannot promise anything of value related to state government in exchange for a contribution to a political committee, political party or a candidate for political office.

For example, it is unlawful for a state board employee or appointee to offer an action by the state board, or to offer someone a state job or to offer an appointment to a state board, or to offer the award of a contract, in exchange for a political campaign donation. It is also unlawful, for example, for a state board employee or appointee, to offer a salary increase or promotion to another state employee in exchange for such a donation.

Revolving Door Restrictions (from Ethics Act, Section 5-45)

Contract Decision-makers

If within one year before leaving state service, a state employee or appointee participated personally and substantially in the decision to award state contracts with a cumulative value of over \$25,000 to a person, entity, its parent or subsidiary, that state employee or appointee cannot knowingly accept employment or receive compensation or fees for services from that person, entity, or parent or subsidiary for one year.

Regulatory or Licensing Decisions

If, within one year before leaving state service, a state employee or appointee made a regulatory or licensing decision that directly applied to a person, entity, its parent or subsidiary, that state employee or appointee cannot knowingly accept employment or receive compensation or fees for services from that person, entity, or parent or subsidiary for one year.

Application for Waiver of Revolving Door Restrictions

The Executive Ethics Commission ("EEC") may waive the revolving door restriction upon written request showing that the prospective employment or relationship did not affect the employee or appointee's prior regulatory or licensing decisions. EEC Rule 1620.610 provides instructions concerning the waiver application process.

Whistleblower Protection (from Ethics Act, Section 15-10)

An officer, state employee (or appointee), or state agency cannot lawfully take any retaliatory action (such as reprimanding, firing, demoting or suspending) against a state employee for doing any of the following:

- Disclosing or threatening to disclose any practice or action that the state employee reasonably believes is in violation of the law.
- Providing information or testifying about any violation of the law by any officer, member, state employee, or state agency.
- Assisting or participating in a proceeding to enforce the State Officials and Employees Ethics Act.

If someone does retaliate against a state employee for reporting a violation of law or assisting in an investigation, for example, then the employee could file a lawsuit seeking compensation and other remedies as provided by law.

Appointments to Boards, Commissions, Authorities or Task Forces (from Ethics Act, Section 5-55)

Appointees to state boards, commissions, authorities and task forces have specific additional laws and rules that apply to them.

Registered Lobbyists (from Lobbyist Registration Act, 25 ILCS 170/3.1)

A lobbyist is any person who communicates with an official of the executive or legislative branch of state government for the purpose of influencing executive, legislative or administrative action. Registered lobbyists are those individuals that meet certain criteria under the Lobbyist Registration Act and are therefore required to register with the Illinois Secretary of State.

A person required to register as a lobbyist cannot serve on a state board, commission, authority or task force authorized or created by state law or by executive order of the governor unless the individual falls under one of the following exceptions:

- The registered lobbyist is serving in an elective public office, whether elected or appointed to fill a vacancy.
- The registered lobbyist is serving on an advisory body that makes nonbinding recommendations to an agency of state government, but does not make binding recommendations or determinations or take any other substantive action.

Any registered lobbyist who serves on a board, commission, authority or task force under one of these exceptions must not take part in any decision that may affect one of his or her clients.

Spouses and immediate family members who are living with a person required to register as a lobbyist also cannot be appointed to a board, commission, authority or task force unless they fall under one of the exceptions above.

Holders of State Contracts (from Ethics Act, Section 5-55)

A person, his or her spouse, or any immediate family member living with that person, cannot serve on a board, commission, authority or task force if he or she meets any of the following criteria:

- The person has more than a 7 ½ percent interest in a state contract;
- The person, together with his or her spouse and immediate family members living with them, has more than a 15 percent interest in a state contract.

This ban does not apply if one of the following exceptions occurs:

- The contract in question is an employment contract.
- The person, the spouse, or the immediate family member is serving in an elective public office.
- The person, the spouse, or the immediate family member is serving on an advisory body that makes non-binding recommendations.

Any person who serves on a board, commission, authority or task force under one of these exceptions must not take part in any decision that may affect the contract in question.

Any individual appointed to a board, commission, authority or task force must disclose all contracts the individual has with the state.

State Contract-related Conflicts of Interest

An appointee to a board, commission, authority or task force cannot have or acquire a contract or a direct financial interest in a contract with the State that is related to the board, commission, authority or task force on which they sit.

Duty to Report Violations of Law, Rule, Regulation or Policy (from Administrative Order 6)

The Office of Executive Inspector General for the Agencies of the Illinois Governor (“OEIG”) acts as an independent state agency whose function is to investigate fraud and abuse in state government. Specifically, the OEIG receives and investigates complaints of violations of law, rule or regulation or abuse of authority or other forms of misconduct by state employees or those doing business with the state.

Although, by law, the OEIG cannot accept anonymous complaints, the identity of a complainant shall be kept confidential unless disclosure is otherwise required by law, or unless the individual complainant consents to disclosure.

All state employees have a duty to report violations of laws, rules, regulations or policies that they become aware of in the course of their work for the state. By law, every state officer or employee in a state agency must promptly report to the Executive Inspector General any information concerning waste, fraud, conflicts of interest or abuse by another state officer, employee or vendor relating to his or her employment. The knowing failure of any officer or employee to so report shall be cause for discipline, up to and including discharge. The knowing provision of false information to the Executive Inspector General by any officer or employee shall be cause for discipline, up to and including discharge. These requirements are contained in Administrative Order 6, issued December 11, 2003.

All state employees, including those of state boards, have a duty to report violations of laws, rules, regulations or policies that they become aware of in the course of their work for the state. *Appointees to state boards are also expected to report these same matters.*

Report work-related non-emergency violations of law, rule or regulation, to the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) at its toll-free hotline: **866-814-1113**.

The OEIG's website is: www.inspectorgeneral.illinois.gov

Duty to Cooperate (from Ethics Act, Section 20-70 & Administrative Order 6)

State board employees and appointees who become involved in an investigation conducted by the Office of Executive Inspector General, have a duty to cooperate. This means, among other things, that employees and appointees must participate in interviews as requested, tell the truth, not withhold information and respect the confidentiality of any investigation.

By law, every state agency, officer and employee, shall cooperate with, and provide assistance to, the Executive Inspector General and her or his staff in the performance of any investigation. In particular, each state agency shall make its premises, equipment, personnel, books, records, and papers readily available to the Executive Inspector General. The Executive Inspector General or his/her staff may enter upon the premises of any state agency at any time, without prior announcement, if necessary to the successful completion of an investigation. In the course of an investigation, the Executive Inspector General may question any officer or employee serving in, and any other person transacting business with the state agency, and may inspect and copy any books, records, or papers in the possession of the state agency, including those made confidential by law, taking care to preserve the confidentiality of information contained in responses to questions or books, records, or papers that is made confidential by law.

The Executive Inspector General may compel any employee in a state agency to truthfully answer questions concerning any matter related to the performance of his or her official duties. If so compelled, no statement or other evidence derived there from may be used against such employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any employee to answer questions if compelled to do so shall be cause for discipline, up to and including discharge.

Law requires state board employees and appointees to cooperate with investigations of the OEIG. Failure to do so may result in disciplinary action, up to and including termination of employment/appointment.

Ex Parte Communications

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

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 an agency's (or board's) general, emergency or peremptory 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
- not a statement made by a state employee to fellow employees of the same board or agency

An ex parte communication received by any agency or board, its head, or its employee must be immediately reported to the agency or board’s Ethics Officer. The Ethics Officer must require that the communication be made a part of the record for the rulemaking proceeding and shall promptly file the communication with the Executive Ethics Commission.

These requirements under the Illinois Administrative Procedures Act apply to all state agencies and boards.

The intent of this section of the Administrative Procedures Act is to ensure that all parties who are interested in administrative rules under consideration by a state agency or board are made aware of communication that may occur outside of a public forum between the agency or board and other interested parties. Should you have any questions concerning whether or not a communication is subject to these ex parte rules, please contact your state board’s Ethics Officer.

Ex Parte Communications on Regulatory, Quasi-Adjudicatory, Investment and Licensing Matters (from Ethics Act, Section 5-50)

These requirements of the Ethics Act that are related to ex parte communications apply to the following state agencies and boards:

Executive Ethics Commission	Merit Commission for the Secretary of State
Illinois Commerce Commission	Merit Commission for the Office of the Comptroller
Educational Labor Relations Board	Court of Claims
State Board of Elections	Board of Review of the Department of Employment Security
Illinois Gaming Board	Civil Service Commission
Health Facilities Planning Board	Department of Financial Professional Regulation and its Boards
Industrial Commission	Department of Public Health and its Licensing Boards
Illinois Labor Relations Board	Pollution Control Board
Illinois Liquor Control Board	State Employees’ Retirement System Board of Trustees
Property Tax Appeal Board	Judge’s Retirement System Board of Trustees
Illinois Racing Board	General Assembly Retirement System Board of Trustees
Illinois Purchased Care Review Board	Illinois Board of Investment
Department of State Police Merit Board	State Universities Retirement System Board of Trustees
Motor Vehicle Review Board	Teachers’ Retirement System Officers Board of Trustees
Prisoner Review Board	Personnel Review Board for the Treasurer

Under the Ethics Act, an ex parte communication is defined as any written or oral communication by any person that provides or requests information of a material nature or makes a material argument concerning regulatory, quasi-adjudicatory, investment or licensing matters being considered by a state agency or board, that is:

- not made in a public forum
- not a statement limited to matters of procedure and practice
- 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 or board, its head or an agency or board employee/appointee from an interested party or their representative, must be promptly made a part of the related official record. “Interested party,” means a person or entity whose rights, privileges or interest are a subject of the matter under consideration by the agency or board.

An ex parte communication received by other parties must be reported to the agency or board’s Ethics Officer. The Ethics Officer shall 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 these boards are made aware of communication that may occur outside of a public forum between a board and other interested parties. Should you have any questions concerning whether or not a communication is subject to these ex parte rules, please contact your state agency or board's Ethics Officer.

Penalties

Penalties for violations of ethics-related laws, rules and policies by state employees and appointees are dependent upon the specific circumstances. Penalties may include administrative action up to and including termination of employment or appointment. In addition, the Executive Ethics Commission may levy administrative fines -- and illegal acts, such as bribery or theft, may result in criminal prosecution.

Ethics Questions or Concerns

State board employees and appointees who have questions or concerns about a work-related ethics issue should contact their board's Ethics Officer.

Ethical Obligations

The following are examples of actions or situations that must be avoided. Each represents unethical conduct:

1. An administrative assistant to a state board's Executive Director is instructed by his supervisor to run a personal errand for her during the workday.

It is wrong to engage in personal business that is contrary to state or board policy during scheduled work times.

2. A state board member accepts a gift of travel expenses in exchange for a favorable vote concerning a regulatory matter for which the board is responsible.

It is unethical and a violation of the law to accept a favor (monetary or other) in exchange for an official action. Such conduct may result in criminal prosecution.

3. During a meeting, a state board member votes in favor of a proposal to grant a state contract to a company owned by one of his/her close personal friends.

It is wrong for any state employee or appointee to take any official action that could be seen as placing personal interests or those of a family member, friend or business associate above those of the state.

4. A state board employee takes a 2-hour personal lunch break, however only reports a ½ hour break on his/her official time report.

It is unethical and unlawful to provide false information in a time report used as a basis for compensating a state board employee.

5. A temporary state board employee is directed by his/her supervisor to distribute political campaign literature to his state coworkers during the workday.

The State Officials and Employees Ethics Act prohibits this and certain other political activity from being done during a state employee's paid workday and/or using state facilities. The Ethics Act applies to full-time, part-time, temporary, seasonal and contract workers, including those of state boards.

6. A state board member uses his/her position as a board member to influence an applicant for a state license to do business with an associate of the board member -- as a condition for the board member's approval of the applicant's license.

It is unethical and unlawful for state board employees and appointees to exchange favors for an official action. Such conduct will result in discipline up to and including termination of employment/appointment and possible criminal prosecution.

7. The college-age son of a state board member receives a pair of tickets to a professional football game from an employee of a business that recently submitted an application requiring approval by his father's state board.

Acceptance of such a gift has the potential to represent either a real or perceived unethical act and thus should be strictly avoided or corrected, preferably by returning the gift.

8. A state board employee, who is responsible for performing analysis of information provided to a state board as part of a rulemaking process, accepts travel and lodging expenses for an out-of-town golf outing from a corporation that is a party to the rulemaking.

Acceptance of such a gift has the potential to be perceived as unethical and may in fact represent a violation of state law and board policy.



Acknowledgement of Participation in:

Ethics Training for Appointees and Employees of State of Illinois Boards

I have carefully read and reviewed the content of Ethics Training for
Appointees and Employees of State of Illinois Boards,
and I understand its subject matter.

Signature

(print: first, middle initial, last) Name

Month and Day of Birth
(i.e., birth date, excluding year)

Date

State Board Name

(To be properly credited for participating in Ethics Training, please submit this form as directed by your state board)

January 2006