



Senate Sexual Discrimination and Harassment
Awareness and Prevention Task Force

January 30, 2018

Senator Melinda Bush

Senator Jil Tracy

Co-Chairpersons



AGENDA

Senate Task Force on Sexual Discrimination and Harassment Awareness and Prevention

**Senator Melinda Bush, Co-Chair
Senator Jil Tracy, Co-Chair**

**Tuesday, January 30, 2018
10:00 A.M. Room 400**

- I. SB 402 Implementation: New Ethics Rules for Elected Officials and State Employees**
 - A. Jim Burns, Secretary of State Inspector General
 - B. Maggie Hickey, Executive Inspector General
 - C. Chad Fornoff, Executive Ethics Commission



**Senate Task Force on Sexual Discrimination and Harassment
Awareness and Prevention**

**Senator Melinda Bush, Co-Chair
Senator Jil Tracy, Co-Chair**

Member List

President Cullerton's Appointees:

Senator Omar Aquino
Senator Scott M. Bennett
Senator Melinda Bush
Senator Bill Cunningham
Julie Curry, Curry & Associates
Felicia Davis, Olive-Harvey College
Carrie Herschman, Choate Herschman Levison
Senator Mattie Hunter
Senator Toi W. Hutchinson
Rikeesha Phelon, Phelon Strategies
Polly Poskin, Illinois Coalition Against Domestic Violence
Senator Heather Steans

Leader Brady's Appointees:

Senator Pamela Althoff
Senator John F. Curran
Ahlam Jbara, Illinois Coalition for Immigrant and Refugee Rights
Leslie Quade Kennedy, Odelson & Sterk
Maureen Maffei, Ice Miller
Senator Karen McConnaughay
Julie Proscia, Smith Amundsen
Senator Dale A. Righter
Dr. Kathleen Robbins, Equality Illinois
Anita Rodriguez, Assistant State's Attorney, Adams County
Maria Rodriguez, Former Mayor of Long Grove
Senator Jil Tracy



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100th General Assembly

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SR 1076

Creation of the Senate Task Force on Sexual
Discrimination and Harassment Awareness and
Prevention

the 1990s, the number of people in the UK who are aged 65 and over has increased from 10.5 million to 13.5 million (15.5% of the population).

There is a growing awareness of the need to address the needs of older people, and the Government has set out a strategy for the 21st century in the White Paper on *Ageing Better* (Department of Health 1999). This strategy is based on the following principles:

- (i) to support older people to live independently in their own homes;
- (ii) to support older people to live in their own communities;
- (iii) to support older people to live in their own homes and communities for as long as possible;
- (iv) to support older people to live in their own homes and communities in a way that is safe and secure.

There is a growing awareness of the need to address the needs of older people, and the Government has set out a strategy for the 21st century in the White Paper on *Ageing Better* (Department of Health 1999).

This strategy is based on the following principles: (i) to support older people to live independently in their own homes; (ii) to support older people to live in their own communities; (iii) to support older people to live in their own homes and communities for as long as possible; (iv) to support older people to live in their own homes and communities in a way that is safe and secure.

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SR1076

LRB100 15515 JWD 30551 r

1

SENATE RESOLUTION

2 WHEREAS, In recent weeks more than 300 legislators,
3 lobbyists, staffers, and policy-makers have signed an open
4 letter acknowledging and condemning the culture of sexual
5 harassment in Illinois politics and government; and

6 WHEREAS, The problem of sexual harassment extends far
7 beyond government to limit women's professional and
8 educational opportunities in virtually every arena, with
9 recent reports of rampant sexual harassment in entertainment,
10 the media, technology, academia, and more; and

11 WHEREAS, Sexual harassment imposes steep psychological,
12 physical, and economic costs on victims, which have the effect
13 of reducing women's economic opportunities and lifetime wages,
14 driving women from the workplace, and discouraging women from
15 public service; and

16 WHEREAS, Sexual harassment also imposes costs on the
17 economy, businesses, and employers by causing decreased
18 productivity, increased job turnover, reputational harm, and
19 costly litigation; and

20 WHEREAS, Sexual harassment takes a toll not just on women
21 but is also frequently directed toward men or can take the form

1 of harassment based on sexual orientation or gender identity;
2 and

3 WHEREAS, Sexual harassment is too often combined with and
4 exacerbated by harassment or discrimination based on race,
5 ethnicity, religion, disability status, or age, and therefore
6 requires an intersectional approach; and

7 WHEREAS, The Equal Employment Opportunity Commission has
8 found that roughly three out of four people who experience
9 harassment never report it because those who do report
10 encounter disbelief, inaction, blame, or social or
11 professional retaliation; and

12 WHEREAS, For too long Illinois has not provided victims of
13 harassment with adequate recourse, allowing this culture of
14 sexual harassment to go largely unchecked; and

15 WHEREAS, The members of the General Assembly recognize it
16 is critical that this conversation continue in a productive and
17 meaningful manner and that appropriate changes be made to
18 maximize legal remedies and protections for those victimized by
19 sexual discrimination and harassment; therefore, be it

20 RESOLVED, BY THE SENATE OF THE ONE HUNDREDTH GENERAL
21 ASSEMBLY OF THE STATE OF ILLINOIS, that there is hereby created

1 the Senate Task Force on Sexual Discrimination and Harassment
2 Awareness and Prevention; and be it further

3 RESOLVED, That the Task Force shall conduct a comprehensive
4 review of the legal and social consequences of sexual
5 discrimination and harassment, in both the public and private
6 sectors; and be it further

7 RESOLVED, That the Task Force shall study and make
8 recommendations on combating sexual discrimination and
9 harassment in Illinois, including in workplaces, in
10 educational institutions, and in State and local government;
11 and be it further

12 RESOLVED, That within 10 days after the adoption of this
13 resolution, members of the Task Force shall be appointed as
14 follows:

15 (1) five legislative members appointed by the
16 President of the Senate, who shall reflect the gender,
17 racial, and ethnic diversity of the caucus appointing them;

18 (2) five legislative members appointed by the Minority
19 Leader of the Senate, who shall reflect the gender, racial,
20 and ethnic diversity of the caucus appointing them;

21 (3) two members from a Statewide association
22 representing women or working to advance civil rights,
23 appointed by the President of the Senate;

1 (4) two members from a Statewide association
2 representing women or working to advance civil rights,
3 appointed by the Minority Leader of the Senate;

4 (5) five members appointed by the President of the
5 Senate;

6 (6) five members appointed by the Minority Leader of
7 the Senate; and be it further

8 RESOLVED, That 2 co-chairpersons, representing different
9 political parties, shall be selected by the members of the Task
10 Force; and be it further

11 RESOLVED, That meetings of the Task Force shall be held as
12 necessary to complete the duties of the Task Force and that the
13 Task Force shall hold its initial meeting no later than
14 December 15, 2017; and be it further

15 RESOLVED, That the Task Force shall permit any interested
16 member of the Senate or private citizen to participate in
17 meetings and provide ideas, thoughts, and recommendations; and
18 be it further

19 RESOLVED, that the Task Force shall work in conjunction
20 with any task force created by the House of Representatives for
21 a similar purpose, and that both entities shall aspire to
22 produce legislation to address the concerns and issues

1 presented to the Task Force; and be it further

2 RESOLVED, That the legislative caucuses shall provide
3 administrative and other support to the Task Force; and be it
4 further

5 RESOLVED, That the members of the Task Force shall receive
6 no compensation for serving; and be it further

7 RESOLVED, That the Task Force shall study and make
8 recommendations regarding:

9 (1) best practices for preventing and responding to
10 sexual discrimination and harassment;

11 (2) proposed legislation or rule-making that would
12 improve the State's existing enforcement efforts to ensure
13 that institutions effectively prevent and respond to
14 sexual discrimination and harassment;

15 (3) increasing the transparency of the State's
16 enforcement activities concerning sexual discrimination
17 and harassment;

18 (4) evaluating the existing ethical, civil, and
19 criminal penalties for sexual discrimination and
20 harassment and determining whether they are sufficient and
21 what changes should be made;

22 (5) broadening public awareness of how to report sexual
23 discrimination and harassment and the remedies available

1 to victims;

2 (6) facilitating coordination among agencies engaged
3 in addressing sexual discrimination and harassment;

4 (7) any other issue related to reducing the incidence
5 of sexual discrimination and harassment or harassment in
6 other forms and protecting the rights of victims; and be it
7 further

8 RESOLVED, That the Task Force shall submit a report with
9 comprehensive recommendations to the General Assembly no later
10 than December 31, 2018, provided that the Task Force is
11 encouraged to produce interim reports.

SB 402 (Public Act 100-0554)

the 1990s, the number of people with a mental health problem has increased in the UK (Mental Health Act 1983, 1990).

There is a growing awareness of the need to improve the lives of people with mental health problems. The Department of Health (1999) has set out a strategy for mental health care in the UK. The strategy is based on the following principles:

• People with mental health problems should be treated as individuals, with their own needs and wishes.

• People with mental health problems should be given the opportunity to participate in decisions about their care and treatment.

• People with mental health problems should be given the opportunity to live in their own homes and communities.

• People with mental health problems should be given the opportunity to work and to contribute to society.

• People with mental health problems should be given the opportunity to live a full and meaningful life.

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• People with mental health problems should be given the opportunity to work and to contribute to society.

• People with mental health problems should be given the opportunity to live a full and meaningful life.

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by changing Section 5-45 as follows:

6 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

7 Sec. 5-45. Emergency rulemaking.

8 (a) "Emergency" means the existence of any situation that
9 any agency finds reasonably constitutes a threat to the public
10 interest, safety, or welfare.

11 (b) If any agency finds that an emergency exists that
12 requires adoption of a rule upon fewer days than is required by
13 Section 5-40 and states in writing its reasons for that
14 finding, the agency may adopt an emergency rule without prior
15 notice or hearing upon filing a notice of emergency rulemaking
16 with the Secretary of State under Section 5-70. The notice
17 shall include the text of the emergency rule and shall be
18 published in the Illinois Register. Consent orders or other
19 court orders adopting settlements negotiated by an agency may
20 be adopted under this Section. Subject to applicable
21 constitutional or statutory provisions, an emergency rule
22 becomes effective immediately upon filing under Section 5-65 or
23 at a stated date less than 10 days thereafter. The agency's

1 finding and a statement of the specific reasons for the finding
2 shall be filed with the rule. The agency shall take reasonable
3 and appropriate measures to make emergency rules known to the
4 persons who may be affected by them.

5 (c) An emergency rule may be effective for a period of not
6 longer than 150 days, but the agency's authority to adopt an
7 identical rule under Section 5-40 is not precluded. No
8 emergency rule may be adopted more than once in any 24-month
9 period, except that this limitation on the number of emergency
10 rules that may be adopted in a 24-month period does not apply
11 to (i) emergency rules that make additions to and deletions
12 from the Drug Manual under Section 5-5.16 of the Illinois
13 Public Aid Code or the generic drug formulary under Section
14 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
15 emergency rules adopted by the Pollution Control Board before
16 July 1, 1997 to implement portions of the Livestock Management
17 Facilities Act, (iii) emergency rules adopted by the Illinois
18 Department of Public Health under subsections (a) through (i)
19 of Section 2 of the Department of Public Health Act when
20 necessary to protect the public's health, (iv) emergency rules
21 adopted pursuant to subsection (n) of this Section, (v)
22 emergency rules adopted pursuant to subsection (o) of this
23 Section, or (vi) emergency rules adopted pursuant to subsection
24 (c-5) of this Section. Two or more emergency rules having
25 substantially the same purpose and effect shall be deemed to be
26 a single rule for purposes of this Section.

1 (c-5) To facilitate the maintenance of the program of group
2 health benefits provided to annuitants, survivors, and retired
3 employees under the State Employees Group Insurance Act of
4 1971, rules to alter the contributions to be paid by the State,
5 annuitants, survivors, retired employees, or any combination
6 of those entities, for that program of group health benefits,
7 shall be adopted as emergency rules. The adoption of those
8 rules shall be considered an emergency and necessary for the
9 public interest, safety, and welfare.

10 (d) In order to provide for the expeditious and timely
11 implementation of the State's fiscal year 1999 budget,
12 emergency rules to implement any provision of Public Act 90-587
13 or 90-588 or any other budget initiative for fiscal year 1999
14 may be adopted in accordance with this Section by the agency
15 charged with administering that provision or initiative,
16 except that the 24-month limitation on the adoption of
17 emergency rules and the provisions of Sections 5-115 and 5-125
18 do not apply to rules adopted under this subsection (d). The
19 adoption of emergency rules authorized by this subsection (d)
20 shall be deemed to be necessary for the public interest,
21 safety, and welfare.

22 (e) In order to provide for the expeditious and timely
23 implementation of the State's fiscal year 2000 budget,
24 emergency rules to implement any provision of Public Act 91-24
25 or any other budget initiative for fiscal year 2000 may be
26 adopted in accordance with this Section by the agency charged

1 with administering that provision or initiative, except that
2 the 24-month limitation on the adoption of emergency rules and
3 the provisions of Sections 5-115 and 5-125 do not apply to
4 rules adopted under this subsection (e). The adoption of
5 emergency rules authorized by this subsection (e) shall be
6 deemed to be necessary for the public interest, safety, and
7 welfare.

8 (f) In order to provide for the expeditious and timely
9 implementation of the State's fiscal year 2001 budget,
10 emergency rules to implement any provision of Public Act 91-712
11 or any other budget initiative for fiscal year 2001 may be
12 adopted in accordance with this Section by the agency charged
13 with administering that provision or initiative, except that
14 the 24-month limitation on the adoption of emergency rules and
15 the provisions of Sections 5-115 and 5-125 do not apply to
16 rules adopted under this subsection (f). The adoption of
17 emergency rules authorized by this subsection (f) shall be
18 deemed to be necessary for the public interest, safety, and
19 welfare.

20 (g) In order to provide for the expeditious and timely
21 implementation of the State's fiscal year 2002 budget,
22 emergency rules to implement any provision of Public Act 92-10
23 or any other budget initiative for fiscal year 2002 may be
24 adopted in accordance with this Section by the agency charged
25 with administering that provision or initiative, except that
26 the 24-month limitation on the adoption of emergency rules and

1 the provisions of Sections 5-115 and 5-125 do not apply to
2 rules adopted under this subsection (g). The adoption of
3 emergency rules authorized by this subsection (g) shall be
4 deemed to be necessary for the public interest, safety, and
5 welfare.

6 (h) In order to provide for the expeditious and timely
7 implementation of the State's fiscal year 2003 budget,
8 emergency rules to implement any provision of Public Act 92-597
9 or any other budget initiative for fiscal year 2003 may be
10 adopted in accordance with this Section by the agency charged
11 with administering that provision or initiative, except that
12 the 24-month limitation on the adoption of emergency rules and
13 the provisions of Sections 5-115 and 5-125 do not apply to
14 rules adopted under this subsection (h). The adoption of
15 emergency rules authorized by this subsection (h) shall be
16 deemed to be necessary for the public interest, safety, and
17 welfare.

18 (i) In order to provide for the expeditious and timely
19 implementation of the State's fiscal year 2004 budget,
20 emergency rules to implement any provision of Public Act 93-20
21 or any other budget initiative for fiscal year 2004 may be
22 adopted in accordance with this Section by the agency charged
23 with administering that provision or initiative, except that
24 the 24-month limitation on the adoption of emergency rules and
25 the provisions of Sections 5-115 and 5-125 do not apply to
26 rules adopted under this subsection (i). The adoption of

1 emergency rules authorized by this subsection (i) shall be
2 deemed to be necessary for the public interest, safety, and
3 welfare.

4 (j) In order to provide for the expeditious and timely
5 implementation of the provisions of the State's fiscal year
6 2005 budget as provided under the Fiscal Year 2005 Budget
7 Implementation (Human Services) Act, emergency rules to
8 implement any provision of the Fiscal Year 2005 Budget
9 Implementation (Human Services) Act may be adopted in
10 accordance with this Section by the agency charged with
11 administering that provision, except that the 24-month
12 limitation on the adoption of emergency rules and the
13 provisions of Sections 5-115 and 5-125 do not apply to rules
14 adopted under this subsection (j). The Department of Public Aid
15 may also adopt rules under this subsection (j) necessary to
16 administer the Illinois Public Aid Code and the Children's
17 Health Insurance Program Act. The adoption of emergency rules
18 authorized by this subsection (j) shall be deemed to be
19 necessary for the public interest, safety, and welfare.

20 (k) In order to provide for the expeditious and timely
21 implementation of the provisions of the State's fiscal year
22 2006 budget, emergency rules to implement any provision of
23 Public Act 94-48 or any other budget initiative for fiscal year
24 2006 may be adopted in accordance with this Section by the
25 agency charged with administering that provision or
26 initiative, except that the 24-month limitation on the adoption

1 of emergency rules and the provisions of Sections 5-115 and
2 5-125 do not apply to rules adopted under this subsection (k).
3 The Department of Healthcare and Family Services may also adopt
4 rules under this subsection (k) necessary to administer the
5 Illinois Public Aid Code, the Senior Citizens and Persons with
6 Disabilities Property Tax Relief Act, the Senior Citizens and
7 Disabled Persons Prescription Drug Discount Program Act (now
8 the Illinois Prescription Drug Discount Program Act), and the
9 Children's Health Insurance Program Act. The adoption of
10 emergency rules authorized by this subsection (k) shall be
11 deemed to be necessary for the public interest, safety, and
12 welfare.

13 (l) In order to provide for the expeditious and timely
14 implementation of the provisions of the State's fiscal year
15 2007 budget, the Department of Healthcare and Family Services
16 may adopt emergency rules during fiscal year 2007, including
17 rules effective July 1, 2007, in accordance with this
18 subsection to the extent necessary to administer the
19 Department's responsibilities with respect to amendments to
20 the State plans and Illinois waivers approved by the federal
21 Centers for Medicare and Medicaid Services necessitated by the
22 requirements of Title XIX and Title XXI of the federal Social
23 Security Act. The adoption of emergency rules authorized by
24 this subsection (l) shall be deemed to be necessary for the
25 public interest, safety, and welfare.

26 (m) In order to provide for the expeditious and timely

1 implementation of the provisions of the State's fiscal year
2 2008 budget, the Department of Healthcare and Family Services
3 may adopt emergency rules during fiscal year 2008, including
4 rules effective July 1, 2008, in accordance with this
5 subsection to the extent necessary to administer the
6 Department's responsibilities with respect to amendments to
7 the State plans and Illinois waivers approved by the federal
8 Centers for Medicare and Medicaid Services necessitated by the
9 requirements of Title XIX and Title XXI of the federal Social
10 Security Act. The adoption of emergency rules authorized by
11 this subsection (m) shall be deemed to be necessary for the
12 public interest, safety, and welfare.

13 (n) In order to provide for the expeditious and timely
14 implementation of the provisions of the State's fiscal year
15 2010 budget, emergency rules to implement any provision of
16 Public Act 96-45 or any other budget initiative authorized by
17 the 96th General Assembly for fiscal year 2010 may be adopted
18 in accordance with this Section by the agency charged with
19 administering that provision or initiative. The adoption of
20 emergency rules authorized by this subsection (n) shall be
21 deemed to be necessary for the public interest, safety, and
22 welfare. The rulemaking authority granted in this subsection
23 (n) shall apply only to rules promulgated during Fiscal Year
24 2010.

25 (o) In order to provide for the expeditious and timely
26 implementation of the provisions of the State's fiscal year

1 2011 budget, emergency rules to implement any provision of
2 Public Act 96-958 or any other budget initiative authorized by
3 the 96th General Assembly for fiscal year 2011 may be adopted
4 in accordance with this Section by the agency charged with
5 administering that provision or initiative. The adoption of
6 emergency rules authorized by this subsection (o) is deemed to
7 be necessary for the public interest, safety, and welfare. The
8 rulemaking authority granted in this subsection (o) applies
9 only to rules promulgated on or after July 1, 2010 (the
10 effective date of Public Act 96-958) through June 30, 2011.

11 (p) In order to provide for the expeditious and timely
12 implementation of the provisions of Public Act 97-689,
13 emergency rules to implement any provision of Public Act 97-689
14 may be adopted in accordance with this subsection (p) by the
15 agency charged with administering that provision or
16 initiative. The 150-day limitation of the effective period of
17 emergency rules does not apply to rules adopted under this
18 subsection (p), and the effective period may continue through
19 June 30, 2013. The 24-month limitation on the adoption of
20 emergency rules does not apply to rules adopted under this
21 subsection (p). The adoption of emergency rules authorized by
22 this subsection (p) is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (q) In order to provide for the expeditious and timely
25 implementation of the provisions of Articles 7, 8, 9, 11, and
26 12 of Public Act 98-104, emergency rules to implement any

1 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
2 may be adopted in accordance with this subsection (q) by the
3 agency charged with administering that provision or
4 initiative. The 24-month limitation on the adoption of
5 emergency rules does not apply to rules adopted under this
6 subsection (q). The adoption of emergency rules authorized by
7 this subsection (q) is deemed to be necessary for the public
8 interest, safety, and welfare.

9 (r) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 98-651,
11 emergency rules to implement Public Act 98-651 may be adopted
12 in accordance with this subsection (r) by the Department of
13 Healthcare and Family Services. The 24-month limitation on the
14 adoption of emergency rules does not apply to rules adopted
15 under this subsection (r). The adoption of emergency rules
16 authorized by this subsection (r) is deemed to be necessary for
17 the public interest, safety, and welfare.

18 (s) In order to provide for the expeditious and timely
19 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
20 the Illinois Public Aid Code, emergency rules to implement any
21 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
22 Public Aid Code may be adopted in accordance with this
23 subsection (s) by the Department of Healthcare and Family
24 Services. The rulemaking authority granted in this subsection
25 (s) shall apply only to those rules adopted prior to July 1,
26 2015. Notwithstanding any other provision of this Section, any

1 emergency rule adopted under this subsection (s) shall only
2 apply to payments made for State fiscal year 2015. The adoption
3 of emergency rules authorized by this subsection (s) is deemed
4 to be necessary for the public interest, safety, and welfare.

5 (t) In order to provide for the expeditious and timely
6 implementation of the provisions of Article II of Public Act
7 99-6, emergency rules to implement the changes made by Article
8 II of Public Act 99-6 to the Emergency Telephone System Act may
9 be adopted in accordance with this subsection (t) by the
10 Department of State Police. The rulemaking authority granted in
11 this subsection (t) shall apply only to those rules adopted
12 prior to July 1, 2016. The 24-month limitation on the adoption
13 of emergency rules does not apply to rules adopted under this
14 subsection (t). The adoption of emergency rules authorized by
15 this subsection (t) is deemed to be necessary for the public
16 interest, safety, and welfare.

17 (u) In order to provide for the expeditious and timely
18 implementation of the provisions of the Burn Victims Relief
19 Act, emergency rules to implement any provision of the Act may
20 be adopted in accordance with this subsection (u) by the
21 Department of Insurance. The rulemaking authority granted in
22 this subsection (u) shall apply only to those rules adopted
23 prior to December 31, 2015. The adoption of emergency rules
24 authorized by this subsection (u) is deemed to be necessary for
25 the public interest, safety, and welfare.

26 (v) In order to provide for the expeditious and timely

1 implementation of the provisions of Public Act 99-516,
2 emergency rules to implement Public Act 99-516 may be adopted
3 in accordance with this subsection (v) by the Department of
4 Healthcare and Family Services. The 24-month limitation on the
5 adoption of emergency rules does not apply to rules adopted
6 under this subsection (v). The adoption of emergency rules
7 authorized by this subsection (v) is deemed to be necessary for
8 the public interest, safety, and welfare.

9 (w) In order to provide for the expeditious and timely
10 implementation of the provisions of Public Act 99-796,
11 emergency rules to implement the changes made by Public Act
12 99-796 may be adopted in accordance with this subsection (w) by
13 the Adjutant General. The adoption of emergency rules
14 authorized by this subsection (w) is deemed to be necessary for
15 the public interest, safety, and welfare.

16 (x) In order to provide for the expeditious and timely
17 implementation of the provisions of Public Act 99-906,
18 emergency rules to implement subsection (i) of Section 16-115D,
19 subsection (g) of Section 16-128A, and subsection (a) of
20 Section 16-128B of the Public Utilities Act may be adopted in
21 accordance with this subsection (x) by the Illinois Commerce
22 Commission. The rulemaking authority granted in this
23 subsection (x) shall apply only to those rules adopted within
24 180 days after June 1, 2017 (the effective date of Public Act
25 99-906). The adoption of emergency rules authorized by this
26 subsection (x) is deemed to be necessary for the public

1 interest, safety, and welfare.

2 (y) In order to provide for the expeditious and timely
3 implementation of the provisions of this amendatory Act of the
4 100th General Assembly, emergency rules to implement the
5 changes made by this amendatory Act of the 100th General
6 Assembly to Section 4.02 of the Illinois Act on Aging, Sections
7 5.5.4 and 5-5.4i of the Illinois Public Aid Code, Section 55-30
8 of the Alcoholism and Other Drug Abuse and Dependency Act, and
9 Sections 74 and 75 of the Mental Health and Developmental
10 Disabilities Administrative Act may be adopted in accordance
11 with this subsection (y) by the respective Department. The
12 adoption of emergency rules authorized by this subsection (y)
13 is deemed to be necessary for the public interest, safety, and
14 welfare.

15 (z) In order to provide for the expeditious and timely
16 implementation of the provisions of this amendatory Act of the
17 100th General Assembly, emergency rules to implement the
18 changes made by this amendatory Act of the 100th General
19 Assembly to Section 4.7 of the Lobbyist Registration Act may be
20 adopted in accordance with this subsection (z) by the Secretary
21 of State. The adoption of emergency rules authorized by this
22 subsection (z) is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (Source: P.A. 99-2, eff. 3-26-15; 99-6, eff. 1-1-16; 99-143,
25 eff. 7-27-15; 99-455, eff. 1-1-16; 99-516, eff. 6-30-16;
26 99-642, eff. 7-28-16; 99-796, eff. 1-1-17; 99-906, eff. 6-1-17;

1 100-23, eff. 7-6-17.)

2 Section 10. The State Officials and Employees Ethics Act is
3 amended by changing Sections 5-5, 20-15, 25-15, 50-5, and 70-5
4 and by adding Sections 5-10.5 and 5-65 as follows:

5 (5 ILCS 430/5-5)

6 Sec. 5-5. Personnel policies.

7 (a) Each of the following shall adopt and implement
8 personnel policies for all State employees under his, her, or
9 its jurisdiction and control: (i) each executive branch
10 constitutional officer, (ii) each legislative leader, (iii)
11 the Senate Operations Commission, with respect to legislative
12 employees under Section 4 of the General Assembly Operations
13 Act, (iv) the Speaker of the House of Representatives, with
14 respect to legislative employees under Section 5 of the General
15 Assembly Operations Act, (v) the Joint Committee on Legislative
16 Support Services, with respect to State employees of the
17 legislative support services agencies, (vi) members of the
18 General Assembly, with respect to legislative assistants, as
19 provided in Section 4 of the General Assembly Compensation Act,
20 (vii) the Auditor General, (viii) the Board of Higher
21 Education, with respect to State employees of public
22 institutions of higher learning except community colleges, and
23 (ix) the Illinois Community College Board, with respect to
24 State employees of community colleges. The Governor shall adopt

1 and implement those policies for all State employees of the
2 executive branch not under the jurisdiction and control of any
3 other executive branch constitutional officer.

4 (b) The policies required under subsection (a) shall be
5 filed with the appropriate ethics commission established under
6 this Act or, for the Auditor General, with the Office of the
7 Auditor General.

8 (c) The policies required under subsection (a) shall
9 include policies relating to work time requirements,
10 documentation of time worked, documentation for reimbursement
11 for travel on official State business, compensation, and the
12 earning or accrual of State benefits for all State employees
13 who may be eligible to receive those benefits. No later than 30
14 days after the effective date of this amendatory Act of the
15 100th General Assembly, the policies shall include, at a
16 minimum: (i) a prohibition on sexual harassment; (ii) details
17 on how an individual can report an allegation of sexual
18 harassment, including options for making a confidential report
19 to a supervisor, ethics officer, Inspector General, or the
20 Department of Human Rights; (iii) a prohibition on retaliation
21 for reporting sexual harassment allegations, including
22 availability of whistleblower protections under this Act, the
23 Whistleblower Act, and the Illinois Human Rights Act; and (iv)
24 the consequences of a violation of the prohibition on sexual
25 harassment and the consequences for knowingly making a false
26 report. The policies shall comply with and be consistent with

1 all other applicable laws. The policies shall require State
2 employees to periodically submit time sheets documenting the
3 time spent each day on official State business to the nearest
4 quarter hour; contractual State employees may satisfy the time
5 sheets requirement by complying with the terms of their
6 contract, which shall provide for a means of compliance with
7 this requirement. The policies for State employees shall
8 require those time sheets to be submitted on paper,
9 electronically, or both and to be maintained in either paper or
10 electronic format by the applicable fiscal office for a period
11 of at least 2 years.

12 (d) The policies required under subsection (a) shall be
13 adopted by the applicable entity before February 1, 2004 and
14 shall apply to State employees beginning 30 days after
15 adoption.

16 (Source: P.A. 93-615, eff. 11-19-03; 93-617, eff. 12-9-03.)

17 (5 ILCS 430/5-10.5 new)

18 Sec. 5-10.5. Sexual harassment training.

19 (a) Each officer, member, and employee must complete, at
20 least annually beginning in 2018, a sexual harassment training
21 program. A person who fills a vacancy in an elective or
22 appointed position that requires training under this Section
23 must complete his or her initial sexual harassment training
24 program within 30 days after commencement of his or her office
25 or employment. The training shall include, at a minimum, the

1 following: (i) the definition, and a description, of sexual
2 harassment utilizing examples; (ii) details on how an
3 individual can report an allegation of sexual harassment,
4 including options for making a confidential report to a
5 supervisor, ethics officer, Inspector General, or the
6 Department of Human Rights; (iii) the definition, and
7 description of, retaliation for reporting sexual harassment
8 allegations utilizing examples, including availability of
9 whistleblower protections under this Act, the Whistleblower
10 Act, and the Illinois Human Rights Act; and (iv) the
11 consequences of a violation of the prohibition on sexual
12 harassment and the consequences for knowingly making a false
13 report. Proof of completion must be submitted to the applicable
14 ethics officer. Sexual harassment training programs shall be
15 overseen by the appropriate Ethics Commission and Inspector
16 General appointed under this Act.

17 (b) Each ultimate jurisdictional authority shall submit to
18 the applicable Ethics Commission, at least annually, or more
19 frequently as required by that Commission, a report that
20 summarizes the sexual harassment training program that was
21 completed during the previous year, and lays out the plan for
22 the training program in the coming year. The report shall
23 include the names of individuals that failed to complete the
24 required training program. Each Ethics Commission shall make
25 the reports available on its website.

1 (5 ILCS 430/5-65 new)

2 Sec. 5-65. Prohibition on sexual harassment.

3 (a) All persons have a right to work in an environment free
4 from sexual harassment. All persons subject to this Act are
5 prohibited from sexually harassing any person, regardless of
6 any employment relationship or lack thereof.

7 (b) For purposes of this Act, "sexual harassment" means any
8 unwelcome sexual advances or requests for sexual favors or any
9 conduct of a sexual nature when: (i) submission to such conduct
10 is made either explicitly or implicitly a term or condition of
11 an individual's employment; (ii) submission to or rejection of
12 such conduct by an individual is used as the basis for
13 employment decisions affecting such individual; or (iii) such
14 conduct has the purpose or effect of substantially interfering
15 with an individual's work performance or creating an
16 intimidating, hostile, or offensive working environment. For
17 purposes of this definition, the phrase "working environment"
18 is not limited to a physical location an employee is assigned
19 to perform his or her duties and does not require an employment
20 relationship.

21 (5 ILCS 430/20-15)

22 Sec. 20-15. Duties of the Executive Ethics Commission. In
23 addition to duties otherwise assigned by law, the Executive
24 Ethics Commission shall have the following duties:

25 (1) To promulgate rules governing the performance of

1 its duties and the exercise of its powers and governing the
2 investigations of the Executive Inspectors General. It is
3 declared to be in the public interest, safety, and welfare
4 that the Commission adopt emergency rules under the
5 Illinois Administrative Procedure Act to initially perform
6 its duties under this subsection.

7 (2) To conduct administrative hearings and rule on
8 matters brought before the Commission only upon the receipt
9 of pleadings filed by an Executive Inspector General, or
10 upon receipt of summaries of reviews submitted by the
11 Inspector General for the Secretary of State under
12 subsection (d-5) of Section 14 of the Secretary of State
13 Act, and not upon its own prerogative, but may appoint
14 special Executive Inspectors General as provided in
15 Section 20-21. Any other allegations of misconduct
16 received by the Commission from a person other than an
17 Executive Inspector General shall be referred to the Office
18 of the appropriate Executive Inspector General.

19 (3) To prepare and publish manuals and guides and,
20 working with the Office of the Attorney General, oversee
21 training of employees under its jurisdiction that explains
22 their duties.

23 (4) To prepare public information materials to
24 facilitate compliance, implementation, and enforcement of
25 this Act.

26 (5) To submit reports as required by this Act.

1 (6) To the extent authorized by this Act, to make
2 rulings, issue recommendations, and impose administrative
3 fines, if appropriate, in connection with the
4 implementation and interpretation of this Act. The powers
5 and duties of the Commission are limited to matters clearly
6 within the purview of this Act, and include authority over
7 allegations that an individual required to be registered
8 under the Lobbyist Registration Act has committed an act of
9 sexual harassment, as set forth in any summaries of reviews
10 of such allegations submitted to the Commission by the
11 Inspector General for the Secretary of State.

12 (7) To issue subpoenas with respect to matters pending
13 before the Commission, subject to the provisions of this
14 Article and in the discretion of the Commission, to compel
15 the attendance of witnesses for purposes of testimony and
16 the production of documents and other items for inspection
17 and copying.

18 (8) To appoint special Executive Inspectors General as
19 provided in Section 20-21.

20 (9) To conspicuously display on the Commission's
21 website the procedures for reporting a violation of this
22 Act, including how to report violations via email or
23 online.

24 (Source: P.A. 93-617, eff. 12-9-03.)

25 (5 ILCS 430/25-15)

1 Sec. 25-15. Duties of the Legislative Ethics Commission. In
2 addition to duties otherwise assigned by law, the Legislative
3 Ethics Commission shall have the following duties:

4 (1) To promulgate rules governing the performance of
5 its duties and the exercise of its powers and governing the
6 investigations of the Legislative Inspector General.

7 (2) To conduct administrative hearings and rule on
8 matters brought before the Commission only upon the receipt
9 of pleadings filed by the Legislative Inspector General and
10 not upon its own prerogative, but may appoint special
11 Legislative Inspectors General as provided in Section
12 25-21. Any other allegations of misconduct received by the
13 Commission from a person other than the Legislative
14 Inspector General shall be referred to the Office of the
15 Legislative Inspector General.

16 (3) To prepare and publish manuals and guides and,
17 working with the Office of the Attorney General, oversee
18 training of employees under its jurisdiction that explains
19 their duties.

20 (4) To prepare public information materials to
21 facilitate compliance, implementation, and enforcement of
22 this Act.

23 (5) To submit reports as required by this Act.

24 (6) To the extent authorized by this Act, to make
25 rulings, issue recommendations, and impose administrative
26 fines, if appropriate, in connection with the

1 implementation and interpretation of this Act. The powers
2 and duties of the Commission are limited to matters clearly
3 within the purview of this Act.

4 (7) To issue subpoenas with respect to matters pending
5 before the Commission, subject to the provisions of this
6 Article and in the discretion of the Commission, to compel
7 the attendance of witnesses for purposes of testimony and
8 the production of documents and other items for inspection
9 and copying.

10 (8) To appoint special Legislative Inspectors General
11 as provided in Section 25-21.

12 (9) To conspicuously display on the Commission's
13 website the procedures for reporting a violation of this
14 Act, including how to report violations via email or
15 online.

16 (Source: P.A. 93-617, eff. 12-9-03.)

17 (5 ILCS 430/50-5)

18 Sec. 50-5. Penalties.

19 (a) A person is guilty of a Class A misdemeanor if that
20 person intentionally violates any provision of Section 5-15,
21 5-30, 5-40, or 5-45 or Article 15.

22 (a-1) An ethics commission may levy an administrative fine
23 for a violation of Section 5-45 of this Act of up to 3 times the
24 total annual compensation that would have been obtained in
25 violation of Section 5-45.

1 (b) A person who intentionally violates any provision of
2 Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business
3 offense subject to a fine of at least \$1,001 and up to \$5,000.

4 (c) A person who intentionally violates any provision of
5 Article 10 is guilty of a business offense and subject to a
6 fine of at least \$1,001 and up to \$5,000.

7 (d) Any person who intentionally makes a false report
8 alleging a violation of any provision of this Act to an ethics
9 commission, an inspector general, the State Police, a State's
10 Attorney, the Attorney General, or any other law enforcement
11 official is guilty of a Class A misdemeanor.

12 (e) An ethics commission may levy an administrative fine of
13 up to \$5,000 against any person who violates this Act, who
14 intentionally obstructs or interferes with an investigation
15 conducted under this Act by an inspector general, or who
16 intentionally makes a false, frivolous, or bad faith
17 allegation.

18 (f) In addition to any other penalty that may apply,
19 whether criminal or civil, a State employee who intentionally
20 violates any provision of Section 5-5, 5-15, 5-20, 5-30, 5-35,
21 5-45, or 5-50, Article 10, Article 15, or Section 20-90 or
22 25-90 is subject to discipline or discharge by the appropriate
23 ultimate jurisdictional authority.

24 (g) Any person who violates Section 5-65 is subject to a
25 fine of up to \$5,000 per offense, and is subject to discipline
26 or discharge by the appropriate ultimate jurisdictional

1 authority. Each violation of Section 5-65 is a separate
2 offense. Any penalty imposed by an ethics commission shall be
3 separate and distinct from any fines or penalties imposed by a
4 court of law or a State or federal agency.

5 (h) Any person who violates Section 4.7 or paragraph (d) of
6 Section 5 of the Lobbyist Registration Act is guilty of a
7 business offense and shall be subject to a fine of up to
8 \$5,000. Any penalty imposed by an ethics commission shall be
9 separate and distinct from any fines or penalties imposed by a
10 court of law or by the Secretary of State under the Lobbyist
11 Registration Act.

12 (Source: P.A. 96-555, eff. 8-18-09.)

13 (5 ILCS 430/70-5)

14 Sec. 70-5. Adoption by governmental entities.

15 (a) Within 6 months after the effective date of this Act,
16 each governmental entity other than a community college
17 district, and each community college district within 6 months
18 after the effective date of this amendatory Act of the 95th
19 General Assembly, shall adopt an ordinance or resolution that
20 regulates, in a manner no less restrictive than Section 5-15
21 and Article 10 of this Act, (i) the political activities of
22 officers and employees of the governmental entity and (ii) the
23 soliciting and accepting of gifts by and the offering and
24 making of gifts to officers and employees of the governmental
25 entity. No later than 60 days after the effective date of this

1 amendatory Act of the 100th General Assembly, each governmental
2 unit shall adopt an ordinance or resolution establishing a
3 policy to prohibit sexual harassment. The policy shall include,
4 at a minimum: (i) a prohibition on sexual harassment; (ii)
5 details on how an individual can report an allegation of sexual
6 harassment, including options for making a confidential report
7 to a supervisor, ethics officer, Inspector General, or the
8 Department of Human Rights; (iii) a prohibition on retaliation
9 for reporting sexual harassment allegations, including
10 availability of whistleblower protections under this Act, the
11 Whistleblower Act, and the Illinois Human Rights Act; and (iv)
12 the consequences of a violation of the prohibition on sexual
13 harassment and the consequences for knowingly making a false
14 report.

15 (b) Within 3 months after the effective date of this
16 amendatory Act of the 93rd General Assembly, the Attorney
17 General shall develop model ordinances and resolutions for the
18 purpose of this Article. The Attorney General shall advise
19 governmental entities on their contents and adoption.

20 (c) As used in this Article, (i) an "officer" means an
21 elected or appointed official; regardless of whether the
22 official is compensated, and (ii) an "employee" means a
23 full-time, part-time, or contractual employee.

24 (Source: P.A. 95-880, eff. 8-19-08.)

25 Section 15. The Secretary of State Act is amended by

1 changing Section 14 as follows:

2 (15 ILCS 305/14)

3 Sec. 14. Inspector General.

4 (a) The Secretary of State must, with the advice and
5 consent of the Senate, appoint an Inspector General for the
6 purpose of detection, deterrence, and prevention of fraud,
7 corruption, mismanagement, gross or aggravated misconduct, or
8 misconduct that may be criminal in nature in the Office of the
9 Secretary of State. The Inspector General shall serve a 5-year
10 term. If no successor is appointed and qualified upon the
11 expiration of the Inspector General's term, the Office of
12 Inspector General is deemed vacant and the powers and duties
13 under this Section may be exercised only by an appointed and
14 qualified interim Inspector General until a successor
15 Inspector General is appointed and qualified. If the General
16 Assembly is not in session when a vacancy in the Office of
17 Inspector General occurs, the Secretary of State may appoint an
18 interim Inspector General whose term shall expire 2 weeks after
19 the next regularly scheduled session day of the Senate.

20 (b) The Inspector General shall have the following
21 qualifications:

22 (1) has not been convicted of any felony under the laws
23 of this State, another State, or the United States;

24 (2) has earned a baccalaureate degree from an
25 institution of higher education; and

1 (3) has either (A) 5 or more years of service with a
2 federal, State, or local law enforcement agency, at least 2
3 years of which have been in a progressive investigatory
4 capacity; (B) 5 or more years of service as a federal,
5 State, or local prosecutor; or (C) 5 or more years of
6 service as a senior manager or executive of a federal,
7 State, or local agency.

8 (c) The Inspector General may review, coordinate, and
9 recommend methods and procedures to increase the integrity of
10 the Office of the Secretary of State. The duties of the
11 Inspector General shall supplement and not supplant the duties
12 of the Chief Auditor for the Secretary of State's Office or any
13 other Inspector General that may be authorized by law. The
14 Inspector General must report directly to the Secretary of
15 State.

16 (d) In addition to the authority otherwise provided by this
17 Section, but only when investigating the Office of the
18 Secretary of State, its employees, or their actions for fraud,
19 corruption, mismanagement, gross or aggravated misconduct, or
20 misconduct that may be criminal in nature, the Inspector
21 General is authorized:

22 (1) To have access to all records, reports, audits,
23 reviews, documents, papers, recommendations, or other
24 materials available that relate to programs and operations
25 with respect to which the Inspector General has
26 responsibilities under this Section.

1 jurisdiction, unless (i) the testimony, documents, or
2 other items are covered by the attorney-client privilege or
3 any other privilege or right recognized by law or (ii) the
4 testimony, documents, or other items concern the
5 representation of employees and the negotiation of
6 collective bargaining agreements by a labor organization
7 authorized and recognized under the Illinois Public Labor
8 Relations Act to be the exclusive bargaining
9 representative of employees of the Secretary of State.
10 Nothing in this Section limits a person's right to
11 protection against self-incrimination under the Fifth
12 Amendment of the United States Constitution or Article I,
13 Section 10, of the Constitution of the State of Illinois.

14 (5) To have direct and prompt access to the Secretary
15 of State for any purpose pertaining to the performance of
16 functions and responsibilities under this Section.

17 (d-5) In addition to the authority otherwise provided by
18 this Section, the Secretary of State Inspector General shall
19 have jurisdiction to investigate complaints and allegations of
20 wrongdoing by any person or entity related to the Lobbyist
21 Registration Act. When investigating those complaints and
22 allegations, the Inspector General is authorized:

23 (1) To have access to all records, reports, audits,
24 reviews, documents, papers, recommendations, or other
25 materials available that relate to programs and operations
26 with respect to which the Inspector General has

1 responsibilities under this Section.

2 (2) To request any information or assistance that may
3 be necessary for carrying out the duties and
4 responsibilities provided by this Section from any local,
5 State, or federal governmental agency or unit thereof.

6 (3) To require by subpoena the appearance of witnesses
7 and the production of all information, documents, reports,
8 answers, records, accounts, papers, and other data and
9 documentary evidence necessary in the performance of the
10 functions assigned by this Section. A subpoena may be
11 issued under this paragraph (3) only by the Inspector
12 General and not by members of the Inspector General's
13 staff. A person duly subpoenaed for testimony, documents,
14 or other items who neglects or refuses to testify or
15 produce documents or other items under the requirements of
16 the subpoena shall be subject to punishment as may be
17 determined by a court of competent jurisdiction, unless the
18 testimony, documents, or other items are covered by the
19 attorney-client privilege or any other privilege or right
20 recognized by law. Nothing in this Section limits a
21 person's right to protection against self-incrimination
22 under the Fifth Amendment of the United States Constitution
23 or Section 10 of Article I of the Constitution of the State
24 of Illinois.

25 (4) To have direct and prompt access to the Secretary
26 of State for any purpose pertaining to the performance of

1 functions and responsibilities under this Section.

2 (5) As provided in subsection (d) of Section 5 of the
3 Lobbyist Registration Act, to review allegations that an
4 individual required to be registered under the Lobbyist
5 Registration Act has engaged in one or more acts of sexual
6 harassment. Upon completion of that review, the Inspector
7 General shall submit a summary of the review to the
8 Executive Ethics Commission. The Secretary shall adopt
9 rules setting forth the procedures for the review of such
10 allegations.

11 (e) The Inspector General may receive and investigate
12 complaints or information concerning the possible existence of
13 an activity constituting a violation of law, rules, or
14 regulations; mismanagement; abuse of authority; or substantial
15 and specific danger to the public health and safety. Any person
16 who knowingly files a false complaint or files a complaint with
17 reckless disregard for the truth or the falsity of the facts
18 underlying the complaint may be subject to discipline as set
19 forth in the rules of the Department of Personnel of the
20 Secretary of State or the Inspector General may refer the
21 matter to a State's Attorney or the Attorney General.

22 The Inspector General may not, after receipt of a complaint
23 or information, disclose the identity of the source without the
24 consent of the source, unless the Inspector General determines
25 that disclosure of the identity is reasonable and necessary for
26 the furtherance of the investigation.

1 Any employee who has the authority to recommend or approve
2 any personnel action or to direct others to recommend or
3 approve any personnel action may not, with respect to that
4 authority, take or threaten to take any action against any
5 employee as a reprisal for making a complaint or disclosing
6 information to the Inspector General, unless the complaint was
7 made or the information disclosed with the knowledge that it
8 was false or with willful disregard for its truth or falsity.

9 (f) The Inspector General must adopt rules, in accordance
10 with the provisions of the Illinois Administrative Procedure
11 Act, establishing minimum requirements for initiating,
12 conducting, and completing investigations. The rules must
13 establish criteria for determining, based upon the nature of
14 the allegation, the appropriate method of investigation, which
15 may include, but is not limited to, site visits, telephone
16 contacts, personal interviews, or requests for written
17 responses. The rules must also clarify how the Office of the
18 Inspector General shall interact with other local, State, and
19 federal law enforcement investigations.

20 Any employee of the Secretary of State subject to
21 investigation or inquiry by the Inspector General or any agent
22 or representative of the Inspector General concerning
23 misconduct that is criminal in nature shall have the right to
24 be notified of the right to remain silent during the
25 investigation or inquiry and the right to be represented in the
26 investigation or inquiry by an attorney or a representative of

1 a labor organization that is the exclusive collective
2 bargaining representative of employees of the Secretary of
3 State. Any investigation or inquiry by the Inspector General or
4 any agent or representative of the Inspector General must be
5 conducted with an awareness of the provisions of a collective
6 bargaining agreement that applies to the employees of the
7 Secretary of State and with an awareness of the rights of the
8 employees as set forth in State and federal law and applicable
9 judicial decisions. Any recommendations for discipline or any
10 action taken against any employee by the Inspector General or
11 any representative or agent of the Inspector General must
12 comply with the provisions of the collective bargaining
13 agreement that applies to the employee.

14 (g) On or before January 1 of each year, the Inspector
15 General shall report to the President of the Senate, the
16 Minority Leader of the Senate, the Speaker of the House of
17 Representatives, and the Minority Leader of the House of
18 Representatives on the types of investigations and the
19 activities undertaken by the Office of the Inspector General
20 during the previous calendar year.

21 (Source: P.A. 96-555, eff. 1-1-10; 96-1358, eff. 7-28-10.)

22 Section 20. The Lobbyist Registration Act is amended by
23 changing Sections 5 and 10 and by adding Section 4.7 as
24 follows:

1 (25 ILCS 170/4.7 new)

2 Sec. 4.7. Prohibition on sexual harassment.

3 (a) All persons have the right to work in an environment
4 free from sexual harassment. All persons subject to this Act
5 shall refrain from sexual harassment of any person.

6 (b) Beginning January 1, 2018, each natural person required
7 to register as a lobbyist under this Act must complete, at
8 least annually, a sexual harassment training program provided
9 by the Secretary of State. A natural person registered under
10 this Act must complete the training program no later than 30
11 days after registration or renewal under this Act. This
12 requirement does not apply to a lobbying entity or a client
13 that hires a lobbyist that (i) does not have employees of the
14 lobbying entity or client registered as lobbyists, or (ii) does
15 not have an actual presence in Illinois.

16 (c) No later than January 1, 2018, each natural person and
17 any entity required to register under this Act shall have a
18 written sexual harassment policy that shall include, at a
19 minimum: (i) a prohibition on sexual harassment; (ii) details
20 on how an individual can report an allegation of sexual
21 harassment, including options for making a confidential report
22 to a supervisor, ethics officer, Inspector General, or the
23 Department of Human Rights; (iii) a prohibition on retaliation
24 for reporting sexual harassment allegations, including
25 availability of whistleblower protections under the State
26 Officials and Employee Ethics Act, the Whistleblower Act, and

1 the Illinois Human Rights Act; and (iv) the consequences of a
2 violation of the prohibition on sexual harassment and the
3 consequences for knowingly making a false report.

4 (d) For purposes of this Act, "sexual harassment" means any
5 unwelcome sexual advances or requests for sexual favors or any
6 conduct of a sexual nature when: (i) submission to such conduct
7 is made either explicitly or implicitly a term or condition of
8 an individual's employment; (ii) submission to or rejection of
9 such conduct by an individual is used as the basis for
10 employment decisions affecting such individual; or (iii) such
11 conduct has the purpose or effect of substantially interfering
12 with an individual's work performance or creating an
13 intimidating, hostile, or offensive working environment. For
14 the purposes of this definition, the phrase "working
15 environment" is not limited to a physical location an employee
16 is assigned to perform his or her duties and does not require
17 an employment relationship.

18 (e) The Secretary of State shall adopt rules for the
19 implementation of this Section. In order to provide for the
20 expeditious and timely implementation of this Section, the
21 Secretary of State shall adopt emergency rules under subsection
22 (z) of Section 5-45 of the Illinois Administrative Procedure
23 Act for the implementation of this Section no later than 60
24 days after the effective date of this amendatory Act of the
25 100th General Assembly.

1 (25 ILCS 170/5)

2 Sec. 5. Lobbyist registration and disclosure. Every
3 natural person and every entity required to register under this
4 Act shall before any service is performed which requires the
5 natural person or entity to register, but in any event not
6 later than 2 business days after being employed or retained,
7 file in the Office of the Secretary of State a statement in a
8 format prescribed by the Secretary of State containing the
9 following information with respect to each person or entity
10 employing, retaining, or benefitting from the services of the
11 natural person or entity required to register:

12 (a) The registrant's name, permanent address, e-mail
13 address, if any, fax number, if any, business telephone
14 number, and temporary address, if the registrant has a
15 temporary address while lobbying.

16 (a-5) If the registrant is an entity, the information
17 required under subsection (a) for each natural person
18 associated with the registrant who will be lobbying,
19 regardless of whether lobbying is a significant part of his
20 or her duties.

21 (b) The name and address of the client or clients
22 employing or retaining the registrant to perform such
23 services or on whose behalf the registrant appears. If the
24 client employing or retaining the registrant is a client
25 registrant, the statement shall also include the name and
26 address of the client or clients of the client registrant

1 on whose behalf the registrant will be or anticipates
2 performing services.

3 (c) A brief description of the executive, legislative,
4 or administrative action in reference to which such service
5 is to be rendered.

6 (c-5) Each executive and legislative branch agency the
7 registrant expects to lobby during the registration
8 period.

9 (c-6) The nature of the client's business, by
10 indicating all of the following categories that apply: (1)
11 banking and financial services, (2) manufacturing, (3)
12 education, (4) environment, (5) healthcare, (6) insurance,
13 (7) community interests, (8) labor, (9) public relations or
14 advertising, (10) marketing or sales, (11) hospitality,
15 (12) engineering, (13) information or technology products
16 or services, (14) social services, (15) public utilities,
17 (16) racing or wagering, (17) real estate or construction,
18 (18) telecommunications, (19) trade or professional
19 association, (20) travel or tourism, (21) transportation,
20 (22) agriculture, and (23) other (setting forth the nature
21 of that other business).

22 (d) A confirmation that the registrant has a sexual
23 harassment policy as required by Section 4.7, that such
24 policy shall be made available to any individual within 2
25 business days upon written request (including electronic
26 requests), that any person may contact the authorized agent

1 of the registrant to report allegations of sexual
2 harassment, and that the registrant recognizes the
3 Inspector General has jurisdiction to review any
4 allegations of sexual harassment alleged against the
5 registrant or lobbyists hired by the registrant.

6 Every natural person and every entity required to register
7 under this Act shall annually submit the registration required
8 by this Section on or before each January 31. The registrant
9 has a continuing duty to report any substantial change or
10 addition to the information contained in the registration.

11 The Secretary of State shall make all filed statements and
12 amendments to statements publicly available by means of a
13 searchable database that is accessible through the World Wide
14 Web. The Secretary of State shall provide all software
15 necessary to comply with this provision to all natural persons
16 and entities required to file. The Secretary of State shall
17 implement a plan to provide computer access and assistance to
18 natural persons and entities required to file electronically.

19 All natural persons and entities required to register under
20 this Act shall remit a single, annual, and nonrefundable \$300
21 registration fee. Each natural person required to register
22 under this Act shall submit, on an annual basis, a picture of
23 the registrant. A registrant may, in lieu of submitting a
24 picture on an annual basis, authorize the Secretary of State to
25 use any photo identification available in any database
26 maintained by the Secretary of State for other purposes. Each

1 registration fee collected for registrations on or after
2 January 1, 2010 shall be deposited into the Lobbyist
3 Registration Administration Fund for administration and
4 enforcement of this Act.

5 (Source: P.A. 98-459, eff. 1-1-14.)

6 (25 ILCS 170/10) (from Ch. 63, par. 180)

7 Sec. 10. Penalties.

8 (a) Any person who violates any of the provisions of this
9 Act, except for a violation of Section 4.7 or paragraph (d) of
10 Section 5, shall be guilty of a business offense and shall be
11 fined not more than \$10,000 for each violation. Every day that
12 a report or registration is late shall constitute a separate
13 violation. In determining the appropriate fine for each
14 violation, the trier of fact shall consider the scope of the
15 entire lobbying project, the nature of activities conducted
16 during the time the person was in violation of this Act, and
17 whether or not the violation was intentional or unreasonable.

18 (a-5) A violation of Section 4.7 or paragraph (d) of
19 Section 5 shall be considered a violation of the State
20 Officials and Employees Ethics Act, subject to the jurisdiction
21 of the Executive Ethics Commission and to all penalties under
22 Section 50-5 of the State Officials and Employees Ethics Act.

23 (b) In addition to the penalties provided for in
24 subsections ~~subsection~~ (a) and (a-5) of this Section, any
25 person convicted of any violation of any provision of this Act

1 is prohibited for a period of three years from the date of such
2 conviction from lobbying.

3 (c) There is created in the State treasury a special fund
4 to be known as the Lobbyist Registration Administration Fund.
5 All fines collected in the enforcement of this Section shall be
6 deposited into the Fund. These funds shall, subject to
7 appropriation, be used by the Office of the Secretary of State
8 for implementation and administration of this Act.

9 (Source: P.A. 96-555, eff. 1-1-10.)

10 Section 25. The Illinois Human Rights Act is amended by
11 adding Section 2-107 as follows:

12 (775 ILCS 5/2-107 new)

13 Sec. 2-107. Hotline to Report Sexual Harassment.

14 (a) The Department shall, no later than 3 months after the
15 effective date of this amendatory Act of the 100th General
16 Assembly, establish and maintain a sexual harassment hotline.
17 The Department shall help persons who contact the Department
18 through the hotline find necessary resources, including
19 counseling services, and assist in the filing of sexual
20 harassment complaints with the Department or other applicable
21 agencies. The Department may recommend individual seek private
22 counsel, but shall not make recommendations for legal
23 representation. The hotline shall provide the means through
24 which persons may anonymously report sexual harassment in both

1 private and public places of employment. In the case of a
2 report of sexual harassment by a person subject to Article 20
3 or 25 of the State Officials and Employees Ethics Act, the
4 Department shall, with the permission of the reporting
5 individual, report the allegations to the Executive Inspector
6 General or Legislative Inspector General for further
7 investigation.

8 (b) The Department shall advertise the hotline on its
9 website and in materials related to sexual harassment,
10 including posters made available to the public, and encourage
11 reporting by both those who are subject to sexual harassment
12 and those who have witnessed it.

13 (c) All communications received by the Department via the
14 hotline or Internet communication shall remain confidential
15 and shall be exempt from disclosure under the Freedom of
16 Information Act.

17 (d) As used in this Section, "hotline" means a toll-free
18 telephone with voicemail capabilities and an Internet website
19 through which persons may report instances of sexual
20 harassment.

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.

Secretary of State
Emergency Rules
Implementing SB 402

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TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE C: CONSTITUTIONAL OFFICERS
CHAPTER III: SECRETARY OF STATEPART 552
DEPARTMENTAL DUTIES

Section

- 552.10 Service of Process Upon the Secretary of State
552.20 Filing of Miscellaneous Documents with the Secretary of State
552.30 Initiating, Conducting and Completing Investigations and Lobbyist Sexual Harassment Reviews

EMERGENCY

AUTHORITY: Sections 10, 11 and 13 of the Securities Law of 1953 [815 ILCS 5/10, 11 and 13], Section 1.05 of the Business Corporation Act of 1983 [805 ILCS 5/1.05], Sections 2-104(b) and 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-104(b) and 2-118], Section 14 of the Secretary of State Act [15 ILCS 305/14], Sections 4.7, 5, 10 and 11 of the Lobbyist Registration Act [25 ILCS 170/11], Section 20-20 of the State Officials and Employees Ethics Act [5 ILCS 430/20-20], and P.A. 100-554, effective November 16, 2017.

SOURCE: Adopted at 12 Ill. Reg. 3022, effective February 1, 1988; amended at 14 Ill. Reg. 6854, effective May 1, 1990; amended at 30 Ill. Reg. 15786, effective September 18, 2006; amended at 34 Ill. Reg. 3661, effective March 5, 2010; amended at 35 Ill. Reg. 10344, effective June 20, 2011; amended at 35 Ill. Reg. 18360, effective October 20, 2011; amended at 40 Ill. Reg. 8011, effective May 18, 2016; at 41 Ill. Reg. 14838, effective November 20, 2017, for a maximum of 150 days.

Section 552.30 Initiating, Conducting and Completing Investigations and Lobbyist Sexual Harassment Reviews**EMERGENCY**

- a) The Office of Inspector General (OIG), which also includes the Executive Inspector General, will conduct all investigations in a professional and thorough manner. Investigations will be properly documented and will be submitted in written reports of findings. Proper documentation of an investigation shall include, at a minimum, a description of the alleged misconduct or offense; the events and circumstances surrounding the allegation, including the results of

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interviews, review of documents and records, and other material information revealed during the investigation; and a recommendation concerning the merits of the allegation.

- b) The OIG will utilize methods for investigative interviews consistent with current police practices and techniques and will observe and comply with all laws and agreements related to the questioning of employees or other individuals.
- c) For the purposes of this Section, the following provisions shall apply when the OIG initiates investigations:
 - 1) The OIG will maintain an intake procedure, under the supervision of the Deputy Inspector General, for processing all complaints. Complaints may be received by telephone, letter, fax, e-mail or in person. Anonymous complaints will be accepted. When a complaint is received, it will be documented on a complaint form and assigned a complaint reference number.
 - 2) The Deputy Inspector General will review each complaint to determine whether a case should be initiated and assigned to an Inspector. When necessary for this initial decision, an Inspector may be assigned to gather additional, preliminary information concerning the validity of the complaint and/or the credibility of the complainant. When the Deputy Inspector General initiates a case, the complaint will receive a case number and be assigned to an Inspector.
 - 3) To initiate an investigation, a complaint must, at a minimum, include facts demonstrating OIG jurisdiction and:
 - A) a reasonable belief that employee misconduct may have occurred involving a violation of a law, rule or regulation; mismanagement; abuse of authority; or a substantial and specific danger to the public health and safety; or
 - B) credible evidence of a violation of the Lobbyist Registration Act [25 ILCS 170].

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- d) For the purposes of this Section, the following provisions shall apply when the OIG conducts investigations:
- 1) The Deputy Inspector General, or his/her designee, will be responsible for the supervision of all investigative activities and will ensure that Inspectors:
 - A) Properly document all investigative activities, which shall include, at a minimum, completion of a complaint form, investigative report and investigative summary;
 - B) Properly secure all physical evidence, including completion of an inventory of evidence form and securing the evidence in an evidence vault or other secure location;
 - C) Complete all reports; and
 - D) Submit case summaries to management that are accurate and complete.
 - 2) Investigative activities may include, but are not limited to: interviews; requests for information, documents or other materials; taking custody of physical evidence; surveillance; and inspection of physical premises. The methods of investigation utilized in each case will be those most likely to establish the relevant facts of the case.
- e) For the purposes of this Section, the following provisions shall apply when the OIG completes investigations:
- 1) All cases will be characterized as Active, Pending or Closed.
 - 2) A case is Active when the matter requires current or continued investigation.
 - 3) A case is Pending when the investigation is completed and awaiting prosecution or civil or administrative action. A case may be classified as Pending/Inactive if no investigative activity is anticipated for a period of 30 days or longer.

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- 4) A case is Closed when investigative action ceases due to unfounded allegations, an administrative closing of the case, the completion of adjudication of all subjects, or the referral of the case to another agency for investigation in which the OIG will not actively participate.
- 5) A Case Summary Report will be completed at the conclusion of each investigation.
 - A) Case Summary Reports will be submitted to the Deputy Inspector General for approval.
 - B) The approved Case Summary Reports then will be submitted to the Inspector General or, for cases involving alleged violations of the State Officials and Employees Ethics Act [5 ILCS 430/5], to the Executive Inspector General for final approval.
 - C) Case Summary Reports approved by the Inspector General will be forwarded to the appropriate Director for informational purposes or for the initiation of disciplinary action. Copies of the Summaries also will be forwarded to the Director of Personnel. In cases that involve alleged violations of the State Officials and Employees Ethics Act, the Executive Inspector General will make a recommendation for discipline and forward that recommendation to the appropriate Department Director and to the Director of Personnel. The completed investigative report will then be submitted to the Executive Ethics Commission, and the Commission will have jurisdiction over disciplinary action. In addition, any hearing to contest disciplinary action for a violation of the Act shall be conducted by the Executive Ethics Commission.
 - D) In the case of a violation of the Lobbyist Registration Act [25 ILCS 170], the Inspector General may submit the investigation to the appropriate State's Attorney or to the Attorney General as provided by law.
- f) The following provisions shall apply to interactions between the OIG and other law enforcement agencies:

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- 1) When it appears that a case may warrant criminal investigation, the appropriate federal, state or local law enforcement agency will be contacted for possible joint investigation at the earliest practicable time. When warranted by an investigation, a case will be presented to the appropriate local or federal prosecutor for a prosecutorial decision.
 - 2) When necessary for the completion of an OIG investigation, the OIG may request information or assistance from appropriate local, state or federal law enforcement agencies.
 - 3) Upon receipt of a request from a local, state or federal law enforcement agency for assistance or information, the OIG will make reasonable efforts to comply.
- g) Reviews of allegations that an individual required to be registered under the Lobbyist Registration Act has engaged in one or more acts of sexual harassment.
- 1) For the purposes of this sub-section, "sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:
 - A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. For the purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship.
 - 2) The OIG will maintain an intake procedure, under the supervision of the Deputy Inspector General, for processing all complaints. Complaints may be received by telephone, letter, fax, e-mail or in person. Anonymous

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complaints will be accepted. When a complaint is received, it will be documented on a complaint form and assigned a complaint reference number.

- 3) The Deputy Inspector General will evaluate each complaint to determine whether a review should be conducted and the matter assigned to an Inspector.
- A) When necessary for this initial decision, an Inspector may be assigned to gather additional, preliminary information concerning the validity of the complaint or demonstrating OIG jurisdiction.
- B) When the Deputy Inspector General initiates a review, the complaint will receive a case number and be assigned to an Inspector.
- C) To initiate a review of a complaint alleging sexual harassment by an individual required to register under the Lobbyist Registration Act there must be a logical nexus between
- i) that individual's status as someone who is required to register under the Lobbyist Registration Act, and
- ii) the circumstances in which the alleged harassment took place, including the location and the identity of the alleged victim of the harassment.
- D) The OIG will not exercise jurisdiction where a complainant alleges his or her employer has engaged in one or more acts of sexual harassment. In such situations the subject of the complaint is acting in the capacity of an employer, and not in the capacity of someone who is required to register under the Lobbyist Registration Act.
- 4) When conducting a review, the following provisions will apply:

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- A) The Deputy Inspector General, or his or her designee, will be responsible for the supervision of all reviewing activities and will ensure that Inspectors:
- i) Properly document all reviewing activities;
 - ii) Properly secure all physical evidence; and
 - iii) Complete a Summary Review.
- B) Reviewing activities may include, but are not limited to: interviews; requests for information, documents or other materials; taking custody of physical evidence; surveillance; and inspection of physical premises. The methods utilized in each review will be those most likely to establish the relevant facts of the case.
- 5) The following provisions will apply when the OIG completes a review of alleged sexual harassment by an individual required to be registered under the Lobbyist Registration Act:
- A) A Summary Review will be completed at the conclusion of each review. The name of the complainant will be redacted from the Summary Review.
 - B) Summary Reviews will be submitted to the Deputy Inspector General for approval.
 - C) The approved Summary Reviews then will be submitted to the Inspector General for final approval. Upon final approval, all Summary Reviews will be submitted to the Executive Ethics Commission. The complainant will be informed of this submission.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 14838, effective November 20, 2017, for a maximum of 150 days.)

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Lobbyist Registration and Reports
- 2) Code Citation: 2 Ill. Adm. Code 560
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
560.100	Amendment
560.205	Amendment
560.220	Amendment
560.235	New Section
- 4) Statutory Authority: Implementing and authorized by the Lobbyist Registration Act [25 ILCS 170].
- 5) Effective Date of this Rule: December 8, 2017
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150-day period or upon adoption of the permanent rule, whichever comes first.
- 7) Date Filed with Index Department: December 8, 2017
- 8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Department's Springfield office and is available for public inspection.
- 9) Reason for Emergency: PA 100-554 was signed by the Governor on November 16, 2017 with an immediate effective date. Emergency rules are necessary, as evidenced by 5 ILCS 100/5-45(z), as amended by PA 100-554, which expressly provides that emergency rules are required to expeditiously implement the provisions of PA 100-554 and adoption of emergency rules is thereby authorized as necessary for the public interest, safety and welfare. Authorization for emergency rulemaking is further set forth in the amendment to 25 ILCS 170/4.7(e), which provides that emergency rulemaking is required due to the implementation of the amendatory language and rules should be adopted no later than 60 days from the effective date of the Act.
- 10) Complete Description of the Subjects and Issues Involved: As it pertains to the subject matter of the proposed emergency rules, PA 100-554 the Secretary of State Office of the Inspector General to review allegations of sexual harassment made against an individual required to register under the Lobbyist Registration Act and to provide a summary of said

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review to the Executive Ethics Commission. In addition, the Secretary of State is further required to provide a sexual harassment training program to individuals required to register as a lobbyist and the training program must be completed within 30 days after registration or renewal under the Lobbyist Registration Act.

- 11) Are there any other rulemakings pending on this Part? Yes, see this issue of the *Illinois Register*.
- 12) Statement of Statewide Policy Objective: The emergency amendments do not require expenditures by units of local government.
- 13) Information and questions regarding these emergency rules shall be directed to:

Amy Williams
Assistant Legal Advisor
298 Howlett Building
Springfield IL 62756

217/785-3094
Awilliams3@ilsos.net

The full text of the Emergency Amendments begins on the next page:

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE C: CONSTITUTIONAL OFFICERS
CHAPTER III: SECRETARY OF STATEPART 560
LOBBYIST REGISTRATION AND REPORTS

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560.100	Definitions
<u>EMERGENCY</u>	
560.105	Designated Officials

SUBPART B: LOBBYIST REGISTRATION

Section	
560.200	Persons Required to Register
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<u>EMERGENCY</u>	
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560.305	Time, Place and Manner for Filing Semi-monthly Reports
560.310	Categorizing Expenditures
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560.320	Large Gatherings and Giveaways
560.325	Reporting Expenditures by Participants in Grass Roots Lobbying Events

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560.326	Registrant's Duties for Grass Roots Lobbying Events
560.330	Expenditures for Immediate Family Members of Officials
560.340	Travel and Lodging Accommodations for Officials
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560.350	Personal and Office Expenses
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560.400	Requests for Reports
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560.APPENDIX A	Lobbyist Registration Statements
560.ILLUSTRATION A	Form R1: Lobbyist Registration Statement – For Individual/Firm/Partnership/Committee/ Association/Corporation or any Other Organization Employing a Lobbyist on Their Own Behalf (Repealed)
560.ILLUSTRATION B	Form R2: Lobbyist Registration Statement – For Individual/Firm/Partnership/Committee/Association/Corporation or any Other Organization Who Performs Lobbying Services on Behalf of Another (Repealed)
560.ILLUSTRATION C	Attachment R1/R2: Lobbyist Registration Attachment – For Individual Lobbyist (Repealed)

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560.ILLUSTRATION D	Form R3: Lobbyist Registration Attachment – For Addition or Deletion of Affiliated Lobbyists (Repealed)
560.ILLUSTRATION E	Form R4: Lobbyist Registration Attachment – For Addition or Deletion of Affiliated Clients (Repealed)
560.APPENDIX B	Lobbyist <u>Expenditure</u> Semi-monthly Reports
560.ILLUSTRATION A	Form S1: Lobbyist <u>Expenditure</u> Semi-monthly Report – Summary of Reportable Expenditures (Repealed)
560.ILLUSTRATION B	Schedule 1A/2A: Lobbyist Expenditure Report – Itemized Expenditures for Travel and Lodging or Meals, Beverages and Entertainment (Repealed)
560.ILLUSTRATION C	Schedule 1B/2B: Lobbyist Expenditure Report – Non-Itemized Expenditures for Travel and Lodging or Meals, Beverages and Entertainment (Repealed)
560.ILLUSTRATION D	Schedule 2C/ 3C : Lobbyist Expenditure Report – Expenditures for Large Gatherings (Repealed)
560.ILLUSTRATION E	Schedule 3A/4A: Lobbyist Expenditure Report – Itemized Expenditures for Gifts or Honoraria (Repealed)
560.ILLUSTRATION F	Schedule 3B/4B: Lobbyist Expenditure Report – Non-Itemized Expenditures for Gifts and Honoraria (Repealed)
560.ILLUSTRATION G	Schedule GR1: Lobbyist Expenditure Notification – Expenditures Notification in Connection with a Grass Roots Lobbying Event (Repealed)

AUTHORITY: Implementing and authorized by the Lobbyist Registration Act [25 ILCS 170] and P.A. 100-554, effective November 16, 2017.

SOURCE: Adopted at 18 Ill. Reg. 22532, effective January 1, 1994; amended at 21 Ill. Reg. 405, effective January 1, 1997; emergency amendment at 22 Ill. Reg. 22419, effective December 8, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 5856, effective May 3, 1999; amended at 24 Ill. Reg. 6708, effective April 14, 2000; emergency amendment at 35 Ill. Reg. 2424, effective January 21, 2011, for a maximum of 150 days; emergency expired June 19, 2011; amended at 35 Ill. Reg. 12761, effective July 18, 2011; emergency amendment at 37 Ill. Reg. 20784, effective December 16, 2013, for a maximum of 150 days; emergency repeal of emergency amendment at 38 Ill. Reg. 5395, effective February 7, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 8401, effective April 3, 2014; emergency amendment at 41 Ill. Reg. 15373, effective December 8, 2017, for a maximum of 150 days.

SUBPART A: DEFINITIONS

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Section 560.100 Definitions**EMERGENCY**

The following definitions shall apply to this Part:

"Act" means the Lobbyist Registration Act [25 ILCS 170].

"Administrative Action" means the execution or rejection of any rule, regulation, legislative rule, standard, fee, rate, contractual arrangement, purchasing agreement or other delegated legislative or quasi-legislative action to be taken or withheld by any executive agency, department, board or commission of the State. (Section 2(i) of the Act) It shall not include any correspondence or direct lobbying communication to an official providing a response to an official's request.

"Allocation" means the proration of the expenditure made for lobbying an official when the expenditure is made for more than one official, but fewer than 25 officials.

"Authorized Agent" means the person designated by *an entity or lobbyist registered under the Act as the person responsible for the accurate submission and retention of reports required under the Act.* (Section 2(l) of the Act) The authorized agent need not register unless he or she is a lobbyist, as defined in this Section.

"Client" means *any person or entity that provides compensation to or employs a lobbyist to lobby State government as provided in the Act.*

"Client Registrant" means a client who is required to register under the Act.

"Compensation" means any money, thing of value or financial benefits received or to be received in return for services rendered or to be rendered, for lobbying, as defined in this Section. Monies paid to officials by the State as remuneration for performance or reimbursement of expenses in connection with their constitutional and statutory duties as officials shall not constitute compensation. (Section 2 of the Act)

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"Complete Report" means a statement or report to be filed with the Secretary of State Index Department in apparent and substantial conformity with the requirements of this Part that shall contain the electronic acknowledgement of the authorized agent, the completion of all applicable sections of the statement or report, and the attachment of all appropriate schedules.

"Direct Lobbying Communication" means any activity concerning the direct contact of officials in person or by means of correspondence, telephone or other electronic medium for the purpose of influencing executive, legislative or administrative action. Any correspondence or contact of a routine nature with an official's office, or by a citizen lawfully petitioning a public official pursuant to Section 9 of the Act, shall not be considered direct lobbying communication, unless the communication is made by a hired lobbyist or is in conjunction with a reportable expenditure.

"Due Diligence" means when a lobbyist or authorized agent for any registered entity shows that best efforts have been used to obtain, maintain and submit the information required by the Act. With regard to filing complete reports, the authorized agent will not be deemed to have exercised due diligence unless he or she has access to the expense records of the entity's lobbyists, and has made at least one written request to obtain information required by the Act from the lobbyist that informs the lobbyist that the reporting of that information to the authorized agent is required by law or regulation. This definition should not be construed as a requirement that the authorized agent review the lobbyist's expense records if the lobbyist certifies their accuracy to the authorized agent.

"Employer" means the individual, firm, partnership, committee, association, corporation or any other organization or group of persons by whom a lobbyist is employed, and not the name of the lobbyist's supervisor.

"Executive Action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a State entity of a rule, regulation, order, decision, determination, contractual arrangement, purchasing agreement or other quasi-legislative or quasi-judicial action or proceeding. (Section 2(g) of the Act) It shall not include any correspondence or communication to an official providing a response to an official's request.

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"Expenditure" means a payment, distribution, loan, advance, deposit or gift of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure, for the ultimate purpose of influencing executive, legislative or administrative action, other than compensation as defined in this Section. (Section 2(b) of the Act) For the purposes of this Part, "expenditure" refers to a reportable expenditure made on behalf of an official in one of the 6 categories described in Section 6 of the Act and Section 560.310 of this Part.

"File", "Filed" and "Filing" means the submission of a complete report, as defined in this Section, to the Secretary of State Index Department by the close of business on the prescribed filing date. Registration statements, semi-monthly reports, and any other required reports or correspondence shall be completed online, using the Secretary of State Index Department website (<http://www.cyberdriveillinois.com/departments/index/home.html>) unless otherwise instructed. If the filing deadline falls on a weekend or a holiday, the deadline will be extended to the next business day unless otherwise instructed. The Index Department shall notify any lobbying entity who has failed to submit a complete report and pay proper fees as required by Sections 560.220 and 560.390. An entity that fails to file a complete entity registration statement, semi-monthly report, or other required report or correspondence and/or pay proper fees shall not be considered a registered lobbying entity by the Secretary of State.

"Goodwill" means, for reporting purposes, any expenditure made on behalf of officials that has no direct relation to a specific executive, legislative or administrative action, regardless of whether the lobbyist making the expenditure is reimbursed by his or her employing registered entity or client. Goodwill should be reported as the subject matter when no specific action is discussed.

"Grass Roots Lobbying Communication" means:

correspondence by a representative (a lobbyist or a non-lobbyist) of a registered entity to the general public, or any segment thereof, encouraging correspondence to an official's office in support of, or opposition to, an executive, legislative or administrative action;

correspondence by a member of the general public, or any segment thereof, to an official's office in support of, or opposition to, an executive,

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legislative or administrative action when such correspondence is a result of a communication described above in this definition. A reportable expenditure made for or on behalf of an official by a member of the general public as a result of a grass roots lobbying communication shall constitute lobbying activity requiring that individual to register as a lobbyist unless that person reports the expenditure to the registered entity pursuant to Section 560.325.

"Grass Roots Lobbying Event" means:

any organized activity sponsored by a registered entity that is intended to influence the actions of officials by inviting or transporting participants (e.g., members, employees, constituents or the general public) to a specific site on the grounds of, or in the proximity of, public offices or other meeting places where officials are expected to be accessible for grass roots lobbying; or

any event to which officials are invited that is sponsored by a non-lobbyist member or employee of a registered entity, e.g., an on-site inspection of, or reception at, the member's or employee's place of business, or a social gathering at any location. Reportable expenditures incurred as a result of the event shall be reported to the registered entity pursuant to Section 560.325.

"Honorarium" means a payment of money to a member of the General Assembly for an appearance or speech, excluding any actual and necessary travel expenses incurred by the member (and one relative) to the extent that those expenses are paid by any other person. [5 ILCS 420/2-110]

"Influencing" means any communication, action, or reportable expenditure or other means used to promote, support, affect, modify, oppose or delay any executive, legislative or administrative action or to promote goodwill with officials, as defined in this Section. (Section 2(f) of the Act)

"Legislative Action" means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or passage or defeat of any bill, amendment, resolution, report, nomination, administrative rule, or other matter by either house of the General Assembly or a committee thereof,

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or by a legislator. Legislative action also means the action of the Governor in approving or vetoing any bill or portion thereof, and the action of the Governor or any agency in the development of a proposal for introduction in the legislature. (Section 2(h) of the Act) It shall not include any correspondence or communication to an official providing a response to an official's request.

"Lobby" and "Lobbying" means any communication with an official of the executive or legislative branch of State government as defined in this Section for the ultimate purpose of influencing any executive, legislative or administrative action. (Section 2(e) of the Act) Lobbying shall not be construed to infringe in any way the right of a citizen to lawfully petition any public official by any means of communication. The following are excluded from the definition of "lobbying":

Any grass roots lobbying communication as defined in this Section;

Any communication by a candidate or political committee, as defined in Article 9 of the Election Code [10 ILCS 5/9], in relation to the candidate's campaign, or other communications by a political party committee registered with the Illinois State Board of Elections or Federal Election Commission;

Any communication by a political committee registered with the Illinois State Board of Elections or Federal Election Commission in connection with a question of public policy referendum to be presented to the electors; and

Any professional or technical assistance or ministerial function (a function in which nothing is left to discretion) as a normal course of business (see Section 560.210(c), (d), and (n)).

"Lobbyist" means any natural person who undertakes to lobby State government as defined in this Section. (Section 2(j) of the Act)

"Lobbying Entity" means any entity that hires, retains, employs or compensates a natural person to lobby State government as provided in this Section. (Section 2(k) of the Act)

"Official" means:

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The Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer and State Comptroller and their Chiefs of Staff;

Cabinet members of any elected constitutional officer, including Directors, Assistant Directors and Chief Legal Counsel or General Counsel, and other position titles of comparable ranking that are deemed by their employing Constitutional Officer to be an official under this Part;

Members of the General Assembly; and

Members of any board, commission, authority, or task force of the State authorized or created by State law or by executive order of the Governor that has authority to make binding recommendations or determinations. (Section 2(c) of the Act) (See Section 560.105 for additional information.)

"Official" shall not be construed to include those individuals possessing power of attorney on behalf of an official.

"Person" means any individual, firm, partnership, committee, association, corporation or any other organization or group of persons. (Section 2(a) of the Act)

"Picture" means an original or photocopied photograph of a lobbyist to be affixed to the lobbyist's registration attachment.

"Professional Services and Technical Skills" shall be limited to advice and analysis directly applying any professional or technical discipline (see Section 560.210(c) and (d)). Being a professional or technical person does not in itself exempt a person from registering if that person undertakes a direct lobbying communication or makes a reportable expenditure.

"Sexual Harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

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submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

For the purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship. [5 ILCS 430/5.65(b)]

"Vendor" means any person who sells or leases commodities, equipment, or real estate to the State of Illinois.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 15373, effective December 8, 2017, for a maximum of 150 days)

SUBPART B: LOBBYIST REGISTRATION

Section 560.205 Designation and Duties of Authorized Agent
EMERGENCY

- a) Every lobbying entity shall designate on its Registration Statement an authorized agent who shall be responsible for keeping copies of the expenditure and registration records provided to him or her by that entity's lobbyists.
- b) For each lobbyist registering independently pursuant to Section 560.220, the Index Department shall assume that the authorized agent is the lobbyist himself or herself unless the lobbyist has specifically designated another individual as his or her agent.
- c) The authorized agent shall be the Index Department's contact person for the registered entity. Notices from the Department will be mailed only to the authorized agent. The authorized agent shall notify the Department of any change of address.
- d) No registered entity shall have a vacancy in the position of authorized agent. The

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Department shall continue to send notices to the authorized agent designated until a registered entity notifies the Department in writing of the new authorized agent.

- e) The authorized agent shall submit the official semi-monthly reports on behalf of the registered entity, consolidating the expenditure information for all of the lobbyists for that entity.
- f) The Index Department shall not accept registration statements and semi-monthly reports that are signed by anyone other than the authorized agent unless accompanied by a written explanation.
- g) Each exclusive lobbyist of each lobbying entity shall be provided with a copy of the written sexual harassment policy of his or her employer by the authorized agent. The authorized agent shall also provide each exclusive lobbyist with an acknowledgement form which acknowledges that the lobbyist has received a copy of said policy which the exclusive lobbyist shall sign and date within 2 business days. The authorized agent shall secure from each exclusive lobbyist the signed and dated acknowledgement and maintain said document for a period of 2 years.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 15373, effective December 8, 2017, for a maximum of 150 days)

Section 560.220 Registration Requirements
EMERGENCY

- a) *Every natural person and every entity required to register under the Act shall register before any service is performed which requires the natural person or entity to register, but in any event not later than 2 business days after being employed or retained. (Section 5 of the Act) Every lobbying entity shall designate a person as an authorized agent (see Sections 560.100 and 560.205) who shall be responsible for reporting under this Part.*
- b) The authorized agent shall file an Entity Registration Statement and an Exclusive Lobbyist Information Statement for all persons who lobby exclusively for the entity even if lobbying is a small percentage of that person's job duties. (See Section 560.405.)
- c) *Every natural person and every entity required to register under the Act shall*

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annually renew his or her registration *on or before January 31* of each year if continuing lobbyist activities from the previous year. By December 15 of each year, the Secretary of State Index Department will send to all current authorized agents reminder notices of the January 31 deadline. Nothing in this Section shall relieve a lobbyist or lobbying entity from the requirement to register before commencing lobbying activities in a particular year and within 2 business days after being employed or retained for lobbying services.

- d) *The registrant has a continuing duty to report any substantial change or addition to the information contained in the registration.* (Section 5 of the Act)
- e) Registration statements shall be filed in accordance with the definition of "filing" (see Section 560.100).
- f) All registration statements shall include an annual, non-refundable, non-transferable registration fee, assessed as follows, in the form of a credit or debit card payment or electronic check payable to the Secretary of State:
 - 1) A lobbyist's registration shall include a single, annual, non-refundable, non-transferable registration fee of \$300. A self-employed independent contract lobbyist who does not lobby under a business entity name or an assumed business name and who has no employees engaged in lobbying activities may submit a single annual fee of \$300 and need not pay an entity fee.
 - 2) A lobbying entity's registration shall include a single, annual, non-refundable, non-transferable registration fee of \$300 for the entity and a single, annual, non-refundable, non-transferable registration fee of \$300 for each person registering as a lobbyist on an Exclusive Lobbyist Information Statement.
- g) The Secretary of State Index Department will provide an acknowledgment to each authorized agent indicating the date of receipt for all statements filed (see Section 560.100).
- h) Persons solely engaged in grass roots lobbying as an employee of a lobbying entity or a participant in a grass roots lobbying event who make a reportable expenditure are required to register unless the expenditure is reported to the

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registered entity pursuant to Section 560.326.

- i) *A confirmation that the registrant has a sexual harassment policy as required by Section 4.7, that such policy shall be made available to any individual within 2 business days upon written request (including electronic requests), that any person may contact the authorized agent of the registrant to report allegations of sexual harassment alleged against the registrant or exclusive lobbyist hired by the registrant, and that the registrant recognizes the Inspector General has jurisdiction to review any allegations of sexual harassment alleged against the registrant or lobbyists hired by the registrant. The confirmation required by this subsection will substantially be presented during the electronic registration process as follows: Submission of registration confirms that this lobbying registrant is in compliance, and will maintain compliance, with the Lobbyist Registration Act [25 ILCS 170] and the Lobbyist Registration and Reports (2 Ill. Adm. Code 560) through the period of registration in this calendar year. This confirms that:*
- 1) The registrant has a written policy on the prevention, prohibition and investigation of sexual harassment and retaliation, to include how to report allegations and the consequences for committing sexual harassment or retaliation.
 - 2) The registrant will provide all employees required to register with a copy of the policy and secure an acknowledgment of receipt.
 - 3) The policy shall be made available, within 2 business days, to any individual who makes a written request for such policy (including electronic requests).
 - 4) Any person may contact the authorized agent of the registrant to report allegations of sexual harassment.
 - 5) The registrant recognizes the Inspector General has jurisdiction to review any allegations of sexual harassment against the registrant or lobbyists hired by the registrant.
 - 6) The registrant acknowledges that violations with regard to sexual harassment are subject to the jurisdiction of the Executive Ethics

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Commission and are subject to the penalties of the State Officials and Employees Ethics Act.

(Source: Amended by emergency rulemaking at 41 Ill. Reg. 15373, effective December 8, 2017, for a maximum of 150 days)

Section 560.235 Prohibition on Sexual Harassment
EMERGENCY

- a) All persons have the right to work in an environment free from sexual harassment. All persons subject to the Act shall refrain from sexual harassment of any person.
- b) Sexual Harrassment Defined
 - 1) For purposes of the Act, "sexual harassment" means any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:
 - A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
 - 2) For the purposes of this definition, the phrase "working environment" is not limited to a physical location an employee is assigned to perform his or her duties and does not require an employment relationship. [5 ILCS 430/5-65]
- c) No later than January 1, 2018, each natural person and any entity required to register under the Act shall have a written sexual harassment policy that shall include, at a minimum:
 - 1) a prohibition on sexual harassment;

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- 2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Department of Human Rights;
- 3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employee Ethics Act, the Whistleblower Act, and the Illinois Human Rights Act; and
- 4) the consequences of a violation of the prohibition on sexual harassment and the consequences for knowingly making a false report. [25 ILCS 170/4.7(c)]

(Source: Added by emergency rulemaking at 41 Ill. Reg. 15373, effective December 8, 2017, for a maximum of 150 days)

Executive Ethics Commission
Proposed Rules
Implementing SB 402

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- 1) Heading of the Part: Organization, Information, Rulemaking and Hearings
- 2) Code Citation: 2 Ill. Adm. Code 1620
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1620.5	Amendment
1620.110	Amendment
1620.120	Amendment
1620.140	Amendment
1620.150	Amendment
1620.420	Amendment
1620.430	Amendment
1620.440	Amendment
1620.460	Amendment
1620.510	Amendment
1620.530	Amendment
1620.610	Amendment
1620.800	Amendment
1620.820	Amendment
1620.825	Amendment
1620.910	New Section
1620.1100	Amendment
1620.1110	Amendment
1620.1270	New Section
- 4) Statutory Authority: Implementing and authorized by Section
- 5) A Complete Description of the Subjects and Issues Involved:
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference?
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: The proposed rules do not establish or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected:
 - B) Reporting, bookkeeping or other procedures required for compliance:
 - C) Types of professional skills necessary for compliance:
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2017

The full text of the Proposed Amendment begins on the next page:

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TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER VI: EXECUTIVE ETHICS COMMISSION

PART 1620
ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS

SUBPART A: ORGANIZATION

Section	
1620.5	Definitions
1620.10	Composition of Executive Ethics Commission
1620.20	Officers
1620.30	Appointment of Executive Director
1620.40	Duties of Executive Director
1620.50	Duties of Staff

SUBPART B: INFORMATION

Section	
1620.110	Requests for Records
1620.120	Response to Requests for Records
1620.130	Appeal of a Denial (Repealed)
1620.140	Copies of Public Records – Fees
1620.150	Materials Immediately Available

SUBPART C: RULEMAKING

Section	
1620.200	Rulemaking Procedures

SUBPART D: INVESTIGATIONS

Section	
1620.300	Conduct of Investigations
1620.310	State Officer or Employee Case Initiation Form
1620.320	Case Initiation Form – Contents
1620.330	Opening an Investigation File
1620.340	Referral to the Appropriate Executive Inspector General
1620.350	Investigations

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1620.360 Investigations Not Concluded Within Six Months (Repealed)

SUBPART E: HEARINGS

Section

1620.420 Attorney of Record
1620.430 Filing Requirements
1620.440 Complaint
1620.450 Complaint – Required Provisions
1620.460 Service
1620.470 Objections
1620.480 Sufficiency of the Complaint
1620.490 Discovery
1620.500 Subpoenas
1620.510 Motions
1620.520 Hearings
1620.530 Decision of the Commission

SUBPART F: REVOLVING DOOR PROHIBITION

Section

1620.610 Revolving Door Prohibition
1620.620 Waiver of Revolving Door Prohibition – Commission Procedure (Repealed)
1620.630 Finality of Decision (Repealed)
1620.640 Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee
1620.650 Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee – Commission Procedure

SUBPART G: GIFT BAN

Section

1620.700 Gift Ban

SUBPART H: MISCELLANEOUS FILINGS

Section

1620.800 Personnel Policies
1620.810 Quarterly and Six-Month Status Reports
1620.820 Ex Parte Communications

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- 1620.825 Communications Related to Procurement
- 1620.826 Communications Related to Power Procurement by the Illinois Power Agency
- 1620.830 Designation of Ethics Officer

SUBPART I: ETHICS TRAINING PROGRAMS

Section

- 1620.900 Ethics Training
- 1620.910 Sexual Harassment Training

SUBPART J: RELEASE OF INVESTIGATION REPORTS AND SUMMARY REVIEWS

Section

- 1620.1000 Investigation Reports Finding a Violation
- 1620.1010 Investigation Reports Finding No Violation
- 1620.1020 Release of Summary Reports
- 1620.1025 Allegations of Sexual Harassment Violations by Lobbyists

SUBPART K: DISCIPLINARY ACTION

Section

- 1620.1100 Disciplinary Action under the Ethics Act
- 1620.1110 Hearings to Contest Disciplinary Actions

SUBPART L: PROCUREMENT CODE CONFLICTS OF INTEREST PROVISIONS

Section

- 1620.1200 Procurement Code Conflicts of Interest Exemptions
- 1620.1250 Potential Conflict of Interest Submittal from the Procurement Policy Board
- 1620.1270 Prohibited Bidder Exceptions for Higher Education

SUBPART M: ACTIONS FOR REMOVING AND DISCIPLINING CERTAIN OFFICERS

Section

- 1620.1300 Purpose
- 1620.1310 Instituting a Complaint for Removal or Discipline
- 1620.1320 Service of Process, Notice
- 1620.1330 Contents of the Complaint and Amendments
- 1620.1340 Objections to Sufficiency of Complaint
- 1620.1350 Sufficiency of the Complaint

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1620.1360	Cause for Discharge or Discipline
1620.1370	Discovery
1620.1380	Subpoenas
1620.1390	Motions
1629.1400	Order of Evidentiary Hearing
1620.1410	Public Hearing
1620.1420	Proposal for Decision and Response
1620.1430	Decision of the Commission
1620.1440	Administrative Law Judge
1620.1450	Authority of Administrative Law Judge
1620.1460	Appearances – Representation
1620.1470	Record of Proceedings
1620.1480	Service of Pleadings

SUBPART L: PROCUREMENT CODE EXEMPTIONS FOR HIGHER EDUCATION

Section

1620.1500 Procurement Code Exemptions for Higher Education

AUTHORITY: Implementing and authorized by Sections 20-5, 20-50 and 20-55 of the State Officials and Employees Ethics Act [5 ILCS 430/20-5, 20-50 and 20-55], Section 2002 of the Fiscal Control and Internal Auditing Act [30 ILCS 10/2002], and Section 10-10, 10-5, and 10-20 of the Illinois Procurement Code [30 ILCS 500/ 10-10, 10-15, 10-20, and 50-39] and authorized by Section 20-15 of the State Officials and Employees Ethics Act [5 ILCS 430/20-15] and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 3340, effective February 23, 2005, for a maximum of 150 days; adopted at 29 Ill. Reg. 9619, effective July 1, 2005; amended at 32 Ill. Reg. 7099, effective July 1, 2008; amended at 34 Ill. Reg. 13108, effective August 27, 2010; amended at 34 Ill. Reg. 19507, effective December 6, 2010; emergency rulemaking at 35 Ill. Reg. 563, effective January 1, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3797, effective February 17, 2011, for the remainder of the 150 days; amended at 35 Ill. Reg. 7308, effective April 21, 2011; amended at 36 Ill. Reg. 13826, effective August 21, 2012; amended at 37 Ill. Reg. 19561, effective November 22, 2013; amended at 42 Ill. Reg. _____, effective _____.

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SUBPART A: ORGANIZATION

Section 1620.5 Definitions

"Act" or "Ethics Act" means the State Officials and Employees Ethics Act [5 ILCS 430].

"Chair" means the Chairperson of the Executive Ethics Commission as chosen in accordance with Section 20-5(e) of the Act.

"Commission" means the Executive Ethics Commission created by Section 20-5 of the Act.

"Commissioner" means a commissioner of the Executive Ethics Commission.

"Executive Inspector General" means one of the five appointees described in Section 20-10(b) of the Act.

"FOIA" means the Freedom of Information Act [5 ILCS 140].

"Officer" or "Employee" means a former or current officer or State employee of the executive branch or of State public universities.

"Petition" means a petition for leave to file a complaint as described in Section 20-50 of the Act.

"Relationship" means any arrangement between a source and the officer or employee for employment, compensation or fees for services.

"Requestor" means a person who submits a request for public records in accordance with this Part.

"Source" means a requestor's prospective employer or source of compensation of fees for services, including the parent or subsidiary of the same.

"Ultimate Jurisdictional Authority" or "UJA" means those entities described in 5 ILCS 430/1-5 and not under the jurisdiction of the Legislative Ethics Commission.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: FREEDOM OF INFORMATION ACT

Section 1620.110 Requests for Records

- a) A request for access to records for an opportunity to inspect or for copies of records and copying shall be submitted in writing to the Freedom of Information Officer at the office of the Executive Ethics Commission. ~~The Freedom of Information Officer shall be the Executive Director~~ shall either serve as, or shall appoint at least one, Freedom of Information Officer for the purpose of receiving FOI requests and responding to those requests. Any person serving as FOI Officer must complete training as required by Section 3.5 of FOIA. Requests for public records may be submitted by mail, e-mail, hand delivery or facsimile, directed to the Freedom of Information Officer, as follows:-

FOI OFFICER

Executive Ethics Commission

401 S. Spring Street

5153 Stratton Building

Springfield, Illinois 62706

EEC.legalstaff@illinois.gov(217)558-1393 (telephone)

(217)558-1399 (facsimile)

~~1-800-526-0844~~ Illinois Relay

www2.illinois.gov/eee

- b) The request must describe the public record sought, being as specific as possible. If the description is not sufficiently clear to allow easy identification of the records sought, the requestor may be asked to supply additional necessary information.
- c) Pursuant to Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15], requests for copies of Executive Ethics Commission rules shall be granted but are not deemed to be Freedom of Information Act to be considered requests unless so labeled by the requestor subject to FOIA procedures.
- d) The requestor shall indicate whether the public record is being obtained for a commercial purpose.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 1620.120 Response to Requests for Records

- a) The Freedom of Information Officer shall respond to a written request for public records within five business days after receipt of the request except that a response to a request for a commercial purpose or a response to a recurrent requestor may take up to 21 days as permitted by, and in accordance with, Sections 3.1 or 3.2 of FOIA, respectively.
- b) If, for one or more reasons provided in Section 3(e) of FOIA, the Freedom of Information Officer request cannot comply with or deny the request ~~be responded to~~ within five business days, the Freedom of Information Officer shall have an additional five business days in which to respond. Within the initial five-day period, the Freedom of Information Officer shall give the requestor written notice of the extension of time to respond or that the requestor that the request is being treated as a voluminous request pursuant to Section 3.6 of FOIA. The notice shall set forth the reasons for why the extension or treatment is necessary.
- c) When a request for a copy of public records has been granted ~~approved~~, the FOI Officer ~~Commission~~ may notify the requestor ~~give notice~~ that the requested copies ~~material~~ will be made available upon payment of fees ~~reproduction costs~~ as provided in Section 6 of FOIA ~~or give notice of the time and place for inspection of the requested material.~~
- d) A denial of a request for public records shall be made in writing and ~~It shall state~~ the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of individuals responsible for the decision. The notice of denial shall also inform the requestor of the right to review by the Public Access Counselor established in the Office of the Attorney General and the requestor's right to judicial review under Section 11 of FOIA.
- e) Failure to respond to a written request within the applicable time limit ~~five working days~~ may be considered by the requestor as a denial of the request.
- f) Pursuant to Section 8.5 of FOIA, the Commission is not required to provide copies of records available on its website when it directs the requestor to the website where the records are available and can reasonably be accessed.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 1620.140 Copies of Public Records – Fees

- a) ~~When copies~~Copies of public records not exempt from disclosure under FOIA are requested, they will be provided subject to the payment of fees charged as allowed by Section 6 of FOIA unless the requestor makes arrangements to personally inspect the public records as provided in Section 1620.120. The first 50 hard copy pages are provided free of charge if and only if the copies are black and white and either legal or letter sized. The Commission reserves the right to charge fees to reimburse its actual costs for reproducing public records exceeding 50 pages or in other formats, as allowed by Section 6 of FOIA.
- b) If the Commission incurs extraordinary shipping expenses for sending copies of public records to the requestor, the Commission reserves the right to seek reimbursement of those actual shipping expenses from the requestor.
- c) Charges may be waived or reduced in any case in which the FOI Officer determines that the waiver serves the public interest.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.150 Materials Immediately Available

Detailed information about the Commission is publically and immediately available at the Commission website: www2.illinois.gov/eec. The Commission's website provides a description of the Commission's responsibilities, organizational structure, categories of public records, and process for obtaining public records. Public records immediately available on the web site include Commission annual reports, UJA sexual harassment training program reports, publications explaining Commission decisions issued pursuant to the State Officials and Employees Ethics Act [5 ILCS 430], and Executive Inspector General Founded Reports.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: HEARINGS

Section 1620.420 Attorney of Record

In all cases filed before the Commission, all respondents not appearing pro se must be represented of record by a member of the Illinois Bar or an eligible out-of-state attorney consistent with the requirements of Illinois Supreme Court Rule 707. ~~Attorneys admitted to~~

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~~practice in states other than Illinois may appear and be heard upon special leave of the Chair or administrative law judge, if any.~~ Attorneys shall file a written appearance before addressing the Commission and may not withdraw an appearance for a party without leave of the Commission.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.430 Filing Requirements

- a) An original and ~~two copies~~ one copy of all documents shall be filed with the Commission at the Commission's offices. The documents shall be produced on 8 1/2" x 11" white paper by a typing, printing, duplicating or copying process that provides a clear, readable image. If a filing is unreadable, it will be returned as unacceptable for filing. Parties represented by counsel shall send to the Commission an electronic copy of all documents via electronic mail on the same day that the paper documents are filed. Parties not represented by counsel are encouraged to send electronic copies of all filings.
- b) Each party who files a document with the Commission shall also send a copy of that document to the other party in the case, or, if represented, to the other party's attorney ~~and to the administrative law judge, if any.~~ Parties shall attach a certificate of service to each document in accordance with Illinois Supreme Court Rule 12.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.440 Complaint

- a) Cases other than appeals of disciplinary actions under the Act filed under Section 1620.1100 shall be commenced by the filing of a complaint with the Commission.
- b) The Executive Inspector General or Secretary of State Inspector General, as appropriate, shall be designated as "the petitioner" and the person who is alleged to have violated the Act shall be designated as "the respondent".
- c) The form of the complaint shall be captioned substantially as follows:

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

A. B., in (his/her) capacity as)
Executive Inspector General for the)

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(constitutional officer),)	
)	
Petitioner,)	
)	
v.)	No. _____
)	
C. D.)	
)	
Respondent.)	

Complaint

- d) The Commission shall assign each complaint a unique tracking number and all subsequent filings in each case shall reference this tracking number.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.460 Service

After filing the complaint, *the petitioner shall serve a file-stamped copy of the complaint both documents on all respondents and on each respondent's ultimate jurisdictional authority in the same manner as process is served under Part 2 (Process) of the Civil Practice Law of the Code of Civil Procedure [735 ILCS 5/Art. II, Part 2]. [5 ILCS 430/20-50(d)]* Petitioner shall file the proof of service with the Commission.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.510 Motions

- a) Unless made orally on the record during a hearing, all motions shall be in writing and shall briefly state the order or relief requested and the specific grounds upon which relief is sought. Motions based on facts that are not in the record shall be supported by affidavit.
- b) The motion shall point out specifically the defect complained of or other grounds for relief and shall specify the requested relief. The moving party shall file a proposed order with each motion.
- c) The Chair or, if an administrative law judge has been appointed, the administrative law judge may determine all motions except motions that are

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potentially dispositive of the case. Motions that are potentially dispositive of the case must be determined by the Commission.

- d) All written motions that are potentially dispositive of the case shall be filed with the Commission and served on the other party ~~at least one week~~ prior to the scheduled hearing. Potentially dispositive motions filed less than one week prior to a scheduled hearing may, in the Commission's discretion, be considered after the scheduled hearing. The scheduled hearing may be continued while the Commission considers the potentially dispositive motion if, in the opinion of the Chair or the administrative law judge, continuing the scheduled hearing is in the best interests of judicial economy.
- e) The Commission may consider potentially dispositive motions with or without oral argument by the parties and may direct the Chair or administrative law judge to conduct a hearing on the motion and present proposed findings of fact and conclusions of law to the Commission.
- f) Dispositive motions may not exceed 15 pages in length and non-dispositive motions may not exceed 5 pages in length without first obtaining leave of the Commission.
- g) Responses to any motion ~~by a non-moving party~~ shall be filed within 15 days after the motion is filed, unless otherwise directed by the Commission, the Chair, or, if an administrative law judge has been appointed, the administrative law judge. Reply briefs and sur-replies shall be permitted solely at the discretion of the Commission, the Chair, or, if an administrative law judge has been appointed, the administrative law judge, who may also determine the deadline and format for the response.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.530 Decision of the Commission

- a) Within 60 days after the hearing or after briefs are due, whichever is later, the Commission shall enter a decision.
- b) When the Commission is determining an appropriate fine pursuant to Section 50-5 of the Act after a finding of liability, the Commission may consider the following mitigating and aggravating factors:

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- 1) nature of violations;
 - 2) the scope of the violation or scheme of violations;
 - 3) the use of title or position;
 - 4) the extent of the use of resources, money, time to the State;
 - 5) the extent of a respondent's intent or knowledge of the facts surrounding the violation;
 - 6) premeditation;
 - 7) the duration of any series of violations;
 - 8) position of authority;
 - 9) involvement of others, especially other State employees;
 - 10) self-disclosure;
 - 11) cooperation;
 - 12) in the absences of substantial aggravating factors, a self-employed person's incidental business or employment matters that are not reported under Section 5-45(f) of the Act in a timely manner or involve subject matter not directly related to prior State employment and that entail monetary amounts of less than \$5,000 are deemed to be offenses warranting a warning or minimal fine;
 - 13) prior disciplinary record or Ethics Act violation; and
 - 14) years of service and type of service with the State.
- c) *The decision shall include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline and the reasoning for that decision. [5 ILCS 430/20-55(a)]*
- d) Decisions of the Commission shall be signed by at least five commissioners.

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- e) *All decisions shall be ~~delivered to the head of the appropriate State agency, sent to the parties, including the appropriate ultimate jurisdictional authority, the Executive Inspector General or Secretary of State Inspector General, as appropriate, the respondent, the ultimate jurisdictional authority, the head of the appropriate State agency~~ and the Attorney General. [5 ILCS 430/20-55(a)]*
- f) Once a complaint has been filed with the Commission, any proposed settlement reached by the parties must be submitted to the Commission for review and approval.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART F: REVOLVING DOOR PROHIBITION

Section 1620.610 Revolving Door Prohibition

- a) *Within 6 months after the effective date of PA 96-555 (August 18, 2009), each executive branch constitutional officer shall adopt a policy delineating which State positions under his or her jurisdiction and control, by the nature of their duties, may have the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions. These policies shall be filed with the Commission and appropriate Executive Inspector General. [5 ILCS 430/5-45(c)]*
- b) No later than June 1, 2010, and annually thereafter, *each Executive Inspector General shall report to the Commission his or her determination of any additional State positions under his or her jurisdiction, not otherwise subject to the policies required by Section 5-45(c) of the Act, that are nonetheless subject to the notification requirement of Section 5-45(f) due to their involvement in the award of State contracts or in regulatory or licensing decisions. [5 ILCS 430/5-45(d)]*
- c) *Any State employee in a position subject to the policies required by subsection 5-45(c) or a determination of Section 5-45(d) of the Act, but who does not fall within the prohibition of Section 5-45(h), 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 Executive Inspector General. [5 ILCS 430/5-45(f)] The employee's notification to the appropriate Executive Inspector General must include:*

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- 1) the employee's name;
 - 2) a description of the positions the employee held in State government in the last 12 months, including the title, responsibilities, and employing State agency or agencies;
 - 3) the title, description and responsibilities of the prospective employment position;
 - 4) the name, description, ownership, corporate structure including its parent and any subsidiaries, and contact information of the prospective employer;
 - 5) in the case of self-employment, that is, when the employee receives or expects to receive remuneration directly from a client, the employee's initial submission shall include a list of known clients with which the employee or his/her business intends to contract. The employee must update this list for a period of one year after termination of State employment when he/she or his/her company intends to contract with a new client and submit the names of each additional client to both the former employee's Ethics Officer and the appropriate Inspector General.
 - 6) a statement from the Ethics Officer or Officers of the State agency or agencies employing the employee in the last 12 months that identifies any contracts the prospective employer, or its parent or subsidiaries have had with the State agency or agencies in the last 12 months, the amounts of those contracts, any regulatory or licensing decisions made by the State agency or agencies in the last 12 months that applied to the prospective employer or its parent or subsidiary, whether the employee was involved in any regulatory, licensing or contracting decisions regarding the prospective employer or its parent or subsidiary within the last 12 months, and if the employee was involved, a description of that involvement. If the Ethics Officer is the employee seeking the determination or is unable for any reason to provide this statement, the Executive Inspector General may consider a statement provided by another appropriate employee or officer. The statement from the ethics officer must be submitted to the appropriate Executive Inspector General within 5 calendar days after receiving notification from the employee.
- d) *Within 10 calendar days after receiving notification from an employee or officer in a position subject to policies required by subsection (a) of this Section, such*

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Executive Inspector General shall make a determination as to whether the State employee is restricted from accepting such employment by Section 5-45(a) or (b) of the Act. Such a determination must be in writing, signed and dated by the Executive Inspector General, and delivered to the subject of the determination within 10 calendar days. [5 ILCS 430/5-45(f)]

- e) *A copy of such a determination shall also be forwarded to the ultimate jurisdictional authority, the Attorney General and the Commission. [5 ILCS 430/5-45(g)] If an Executive Inspector General fails to make a determination within 10 calendar days after receiving a notification described in subsections (e) and (d), the EIG shall report this failure to the Attorney General and Commission immediately.*

- f) *An Executive Inspector General's determination may be appealed to the Commission by the person subject to the determination or the Attorney General no later than the 10th calendar day after the date of the determination. [5 ILCS 430/5-45(g)]*
 - 1) The appeal filed with the Commission shall contain a copy of the Executive Inspector General's written determination and a verified statement that explains the basis for arguing that the determination was in error. Copies of the appeal shall be sent to the relevant Executive Inspector General and shall also be sent to the subject of the determination, if filed by the Attorney General, or the Attorney General, if filed by the subject of the determination.

 - 2) A complete copy of the Executive Inspector General's revolving door determination file shall be served on the appellant within 48 hours of the appeal's being filed with the Commission.

 - 3) Any objection to the appeal by the subject of the determination or by the Attorney General shall be filed with the Commission within 5 calendar days after the filing, unless the Commission grants an extension of time.

 - 4) *The Commission shall seek, accept and consider written public comments regarding a determination. A copy of the appeal will be posted on the Commission's web site and be posted at the Commission's offices, with instructions on how written public comments may be forwarded to the Commission for consideration. The Commission shall assess, in addition to any other relevant information, the effect of the prospective employment*

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or relationship upon the decisions referred to in Section 5-45(a) or (b) of the Act, based upon the totality of the participation by the former officer or employee in those decisions. [5 ILCS 430/5-45(g)]

- 54) The Commission shall decide whether to uphold an Executive Inspector General's determination within 10 calendar days after receiving the appeal. Copies of the Commission's decision shall be sent to the former officer or employee, the Attorney General, the relevant Executive Inspector General, and the ultimate jurisdictional authority.
- g) *Any State employee in a position subject to the policies required by Section 5-45(c) or a determination of Section 5-45(d) of the Act, who is offered non-State employment during State employment or within a period of one year immediately after termination of State employment, but fails to provide the required notice set forth in subsection (c), shall be subject to a fine pursuant to Section 50-5(e) of the Act [5 ILCS 430/5-45(f)].*
- h) Any employee or officer who receives offers of non-State employment during State employment or within a period of one year immediately after termination of State employment and who is concerned about the effect of accepting the employment offer vis-à-vis the revolving door prohibition may seek a determination as provided in this Section.
- ~~i) Any employee or officer who receives offers of non-State employment during State employment or within a period of one year immediately after termination of State employment and who is concerned about the effect of accepting the employment offer vis-à-vis the revolving door prohibition may seek a determination as provided in this Section.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART H: MISCELLANEOUS FILINGS

Section 1620.800 Personnel Policies

- a) Each executive branch constitutional officer, and the Board of Higher Education ~~and the Community College Board~~ shall file copies of the personnel policies adopted and implemented pursuant to 5 ILCS 430/5-5 with the Commission by August 15, 2005.

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- b) The officers and boards identified in subsection (a) of this Section shall also on July 1 of each year, file with the Commission copies of the personnel policies in effect on that date, or a statement that the policies are unchanged from the previous year.
- c) The officers and boards identified in subsection (a) of this Section shall also file with the Commission any amendments to the personnel policies within 30 days after the adoption of the amendments.
- d) ~~The officers and boards identified in subsection (a) of this Section shall also file with the Commission the name, business address, telephone number and e-mail address of ethics officers appointed pursuant to 5 ILCS 430/20-23 by August 15, 2005 and within 30 days after the appointment of new ethics officers.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.820 Ex Parte Communications

- a) Any State officer or employee who receives an ex parte communication from a non-interested party as excluded by Section 5-50(b-5) and Section 5-50(d) of the State Officials and Employee Ethics Act [5 ILCS 5-50(b-5) and (d)] or an ex parte communication from any person that imparts or requests material information or makes a material argument regarding an agency's rulemaking pursuant to Section 5-165 of the Illinois Administrative Procedure Act [5 ILCS 100/5-165] shall report this communication within 7 days to his or her agency's ethics officer.
- b) *Any ethics officer who receives a report of ex parte communications described in subsection (a) shall forward the report to the Commission within seven days, except with respect to communications related to the agency's rulemaking pursuant to Section 5-165 of the Illinois Administrative Procedure Act, which may be reported to the Commission at the same time the agency files its Second Notice with the Joint Committee on Administrative Rules. Any ex parte communication that the ethics officer reasonably believes is an attempt to influence through duress, coercion or the direct or indirect offer or promise of anything of value to any person or entity in consideration for any benefit or preference must be reported to the Executive Ethics Commission by the next business day. The report shall include:*
 - 1) *all written ex parte communications, including all written responses to the communications;*

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- 2) *a memorandum prepared by the ethics officer containing:*
 - A) *the nature and substance of all oral ex parte communications;*
 - B) *the identity and job title of the person to whom each communication was made;*
 - C) *all responses made and the identity and job title of the person making each response;*
 - D) *the identity of each person from whom the written or oral ex parte communication was received and the date of receipt;*
 - E) *the individual or entity represented by that person;*
 - F) *any action the person requested or recommended; and*
 - G) *any other pertinent information. [5 ILCS 430/5-50(c)]*
- c) ~~Communications regarding matters of practice and procedure as described in Section 10-60(d) of the Illinois Administrative Procedure Act [5 ILCS 100/10-60(d)] are not considered ex parte communications for the purposes of this Part.~~
- d) For reporting of ex parte communications under Section 5-165 of the IAPA, repetitive, bulk public comment (e.g., form letters, petitions) may be reported in the following manner.
 - 1) Identification of the persons and or entity that authored the comment (if known), with address and phone number;
 - 2) Identification of any other entities in support of or opposition to the rulemaking and of the comment received by the agency;
 - 3) Provision of a sample of the public comment and, where different form letters are used, a sample of each;
 - 4) Submission of a tabulation of the number of persons supporting/opposing each type of public comment received by the agency; and

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- 5) Retention by the agency of all comments received.
- d) Reports received under this Section shall be considered by the Commission for possible action pursuant to Section 20-15(2) of the Act. Reports received by the Commission shall be maintained in accordance with the State Records Act [5 ILCS 160].

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.825 Communications Related to Procurement

- a) Unless otherwise specified in this Section, *any written or oral communication received by a State employee who, by the nature of his or her duties, has the authority to participate personally or substantially in the decision to award a State contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including but not limited to, an application, a contract or a project, shall be reported to the Procurement Policy Board, and, with respect to the Illinois Power Agency, by the initiator of the communication, and may be reported also by the recipient.* [30 ILCS 500/50-39(a)]
- 1) As soon as practicable, but in no event more than 30 days after receipt of the communication or the first in a series of related communications described in subsection (b), the State employee shall report the communication to the Procurement Policy Board in accordance with the Board's rules.
- 2) Notwithstanding the requirements of subsection (a), as soon as practicable, but in no event more than 30 days after receipt of a communication described in subsection (b), the initiator of a communication received by an employee of the Illinois Power Agency shall also report, and the recipient of the communication may report, the communications to the Procurement Policy Board in accordance with the Board's rules.
- 3) *No trade secrets or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.* [30 ILCS 500/50-39(b)]

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- b) A communication must be reported if it is material, regarding a potential action, relating to an active procurement matter, and not otherwise excluded from reporting.
- 1) Materiality
 - A) *"Material information" is information that a reasonable person would deem important in determining his or her course of action. It is information pertaining to significant issues, including, but not limited to, price, quantity and terms of payment or performance. [30 ILCS 500/50-39(g)]*
 - B) *A "material argument" is a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. It does not include general information about products, services or industry best practices, or a response to a communication initiated by an employee of the State for the purpose of providing information to evaluate new products, trends, services or technologies. [30 ILCS 500/50-39(g)]*
 - C) In determining whether a communication is material, the State employee must consider:
 - i) whether the information conveyed is new or already known to the State agency (or repeated or restated privately) and other participants in the communication; and
 - ii) the likelihood that the information would influence a pending procurement matter.
 - 2) A "potential action" is one that a reasonable person would believe could affect the initiation, development or outcome of a procurement matter.
 - 3) *"Active procurement matter" means a procurement process beginning with the requisition or determination of need by an agency and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or Procurement Policy Board review period, if applicable. The Chief Procurement Officer may designate a document for an agency*

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to use in documenting a determination of need. *"Active procurement matter" also includes communications relating to change orders, renewals or extensions.* [30 ILCS 500/50-39(g)] "Procurement processes" includes the processes of procuring specific goods, supplies, services, professional or artistic services, construction, leases of real property (whether the State is the lessor or lessee), or capital improvements, and includes master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. Active procurement matters include:

- A) drafting, reviewing or preparing specifications, plans or requirements, including determining the method of source selection;
 - B) drafting, reviewing or preparing any Invitations for Bid, Requests for Information, Requests for Proposals, sole source procurement justifications, emergency procurement justifications or selection information;
 - C) evaluating bids, responses and offers, other communications among an evaluation team and any technical advisors to the team relating to the evaluation of a procurement not yet awarded;
 - D) letting or awarding a contract;
 - E) resolving protests;
 - F) determining inclusion on prequalification lists or prequalification in general;
 - G) identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;
 - H) allowing a conflict or subcontract pursuant to Section 50-60 of the Illinois Procurement Code [30 ILCS 500]; and
 - I) determining, drafting, preparing, executing, denying or approving change orders or the renewal or extension of an existing contract.
- c) This Section does not apply to the following communications:

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- 1) *Statements by a person publicly made in a public forum.* However, communications made in a public forum, if made again privately, must be reported;
- 2) *Statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter;*
- 3) *Communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract.*
- 4) *Statements made by a State employee to:*
 - A) *the State employee's agency head;*
 - B) *other employees of that agency;*
 - C) *employees of the Executive Ethics Commission; or*
 - D) *an employee of another State agency who, through the communication, is either:*
 - i) *exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate State Purchasing Officer; or*
 - ii) *exercising oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.*
- 5) *Unsolicited communications providing general information about products, services or industry best practices, before those products or services become involved in a procurement matter.*
- 6) *Communications received in response to procurement solicitations pursuant to the Illinois Procurement Code, including, but not limited to,*

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vendor responses to a Request for Information, Request for Proposal, Request for Qualifications, Invitation for Bid or a small purchase, sole source or emergency solicitation, or questions and answers posted to the Procurement Bulletin to supplement the procurement action, provided that the communications are made in accordance with the instructions contained in the procurement solicitation, procedures or guidelines.

- 7) *Communications that are privileged, protected or confidential under law.*
- 8) *Communications that are part of a formal procurement process as set out by statute, rule or the solicitation, guidance or procedures, including, but not limited to, the posting of procurement opportunities, the processes for approving a procurement business case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes.*
- 9) *Any communication asking for clarification regarding a contract solicitation so long as there is no competitive advantage to the person or business and the question and answer, if material, are posted to the Illinois Procurement Bulletin as an addendum to the contract solicitation.*

[30 ILCS 500/50-39(a)]

- d) Notwithstanding any exemption provided in subsection (c), a State employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning an active procurement matter if that communication attempts to influence through duress, coercion or the direct or indirect offer or promise of anything of value to any person or entity in consideration for any benefit or preference in the procurement process.
- e) Notwithstanding any exemption provided in subsection (c), a State employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning an active procurement matter if the employee reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or non-monetary, to any person or entity.
- f) This Section does not apply to communications concerning procurements that are exempt from the Illinois Procurement Code.

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- g) For purposes of this Section, "State employee" means:
- 1) any person employed full-time, part-time or pursuant to a personal services contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed;
 - 2) any appointed or elected commissioner, trustee, director or board member of a board of a State agency; or
 - 3) any other person appointed to a position in or with a State agency, regardless of whether the position is compensated.
- h) For purposes of this Section, "public forum" includes any meeting that satisfies the notice requirements contained in Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], but also includes other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required, such as educational seminars and conferences.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART I: ETHICS TRAINING PROGRAMS

Section 1620.910 Sexual Harassment Training

- a) Each UJA shall submit to the Commission and the appropriate Executive Inspector General by February 1 of each year a report that summarizes the sexual harassment training program that was completed by officers and employees under its jurisdiction during the previous calendar year and lays out the plan for the training program in the current year. The initial report shall be submitted by July 1, 2018, and need include only the plan for training in the year 2018.
- b) This report shall be submitted in a commonly available and searchable format (e.g., PDF) and contain the following information:
- 1) A description of how initial and annual sexual harassment training of employees and officers of the UJA was delivered during the previous year, including descriptions of the content covered, the materials used, and delivery modes.

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- 2) The number of officers or employees who completed initial sexual harassment training and the number of officers and employees who completed annual sexual harassment training in the previous year, identified by agency.
 - 3) The names of any officers or employees who, for any reason, failed to complete the required annual or initial training during the previous year; the reason, if available, for each failure; and what disciplinary or administrative action the UJA has imposed or plans to impose in response to this failure. As such reports will be made available to the public on the Commission's website, care should be taken not to include information disclosure of which would constitute an unwarranted invasion of personal privacy.
 - 4) An explanation of how proof of completion of sexual harassment training was submitted to the ethics officers in the prior year and will be in the current year for both initial and annual training.
- c) Each UJA shall also provide to the Commission and the appropriate Executive Inspector General for their review and approval a copy of all sexual harassment training materials to be used to train employees subject to the jurisdiction of that UJA during a given calendar year at least 8 weeks before the use of those materials commences. The Commission and Executive Inspector General shall review the materials for compliance with Sec. 5-10.5 of the Act, accuracy, and effectiveness and shall approve or offer suggestions or amendments within 4 weeks of receipt of the materials. The materials shall not be used until approvals are obtained.

(Source: Added at 42 Ill. Reg. _____, effective _____)

SUBPART J: ~~RELEASE OF~~ INVESTIGATION REPORTS AND SUMMARY REVIEWS

Section 1620.1025 Allegations of Sexual Harassment Violations by Lobbyists

In accordance with Section 14(d-5)(5) of the Secretary of State Act [15 ILCS 305/14(d-5)(5)], the Secretary of State Inspector General shall, upon completion of a review of allegations that an individual required to be registered under the Lobbyist Registration Act has engaged in one or more acts of sexual harassment, submit a summary of the review to the Commission.

- a) The summary of the review shall include the following:

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- 1) The unique tracking number of the review.
 - 2) A statement of whether or not the Inspector General determines that reasonable cause exists to believe an individual required to be registered under the Lobbyist Registration Act has engaged in one or more acts of sexual harassment and an explanation of the basis for that determination.
 - 3) A description of any allegations or other information received by the Secretary of State Inspector General pertinent to the review.
 - 4) A summary of investigative steps taken. This summary need not disclose any confidential investigation techniques.
 - 5) If reasonable cause exists to believe there has been an act of sexual harassment, then
 - A) A description of the alleged misconduct discovered in the course of the review.
 - B) The last known mailing addresses for all subjects or, if the subjects are represented by counsel, the mailing address for their counsel.
 - C) The date of the last alleged violation of the Act or other State law, rule or policy giving rise to the investigation.
 - 6) Other information the Secretary of State Inspector General deems relevant to the review or resulting recommendation.
- b) If the Inspector General determines that reasonable cause exists to believe a sexual harassment violation has occurred, the Secretary of State Inspector General shall also provide a copy of the summary of the review and supporting documents along with a request that the Attorney General file a complaint on behalf of the Inspector General to initiate proceedings before the Commission.
 - c) If, after reviewing the documents, the Commission believes that further investigation is warranted, the Commission may request that the Secretary of State Inspector General provide additional information or conduct further review.

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- d) If, after review, the Attorney General agrees that reasonable cause exists to believe that a violation has occurred, then the Attorney General may file a complaint with the Commission. If the Attorney General concludes that there is insufficient evidence that a violation has occurred, the Attorney General shall notify the Commission and the Secretary of State Inspector General.
- e) No person who has reviewed the summary of a review with respect to which a complaint is filed by the Attorney General, or who has participated in discussions of the substance of that review, may be appointed to serve as administrative law judge with respect to the administrative proceedings arising from that review.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART K: DISCIPLINARY ACTION

Section 1620.1100 Disciplinary Action under the Ethics Act

Disciplinary action under the Ethics Act against a person subject to the Personnel Code, the Secretary of State Merit Employment Code, the Comptroller Merit Employment Code, or the State Treasurer Employment Code is within the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of those Acts. [5 ILCS 430/20-55(c)]

- a) An allegation of a violation of the Ethics Act shall set forth with particularity a statement of facts and a designation of the applicable provisions of the Ethics Act that have been violated or not complied with. Allegations of Ethics Act violations shall be set forth separately from any other allegations of violations.
- b) Any appeal must be filed with the Commission within 15 days after the date on which the affected person knew, received written notice, or, through the use of reasonable diligence, should have known, of the ~~alleged violation~~ disciplinary action. The affected person shall simultaneously serve a copy of the appeal on the Director of the Department of Central Management Services (CMS) or the Secretary of State, Comptroller or Treasurer, as appropriate.
- c) The form of the appeal shall be captioned substantially as follows:

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE APPEAL OF
(employee).

) No. _____
)

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)

Appeal

- ed) The appeal shall state facts and argument to support the person's appeal. Relevant documents may be attached as exhibits.
- ed) The CMS Director or the Secretary of State, Comptroller or Treasurer, as appropriate, may respond within 15 days after the appeal.
- ef) Within 60 days after the receipt of the appeal and response, the Commission may set the matter for hearing if it concludes that substantial issues of fact or law exist, or issue its decision, so long as the penalty to be imposed is not removal, discharge, demotion or suspension for a period of more than 30 days within a 12-month period.
- gf) If the penalty to be imposed is removal, discharge, demotion or suspension for a period of more than 30 days within a 12-month period, the Chair or Administrative Law Judge, if any, shall set the matter for hearing.
- gh) While related allegations of non-Ethics Act violations are pending with other entities, the Commission may continue proceedings before it generally and suspend time periods described in this Part.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1620.1110 Hearings to Contest Disciplinary Actions

Any hearings to contest disciplinary action for a violation of the Ethics Act against a person subject to the Personnel Code, the Secretary of State Merit Employment Code, the Comptroller Merit Employment Code, or the State Treasurer Employment Code pursuant to an agreement between an Executive Inspector General and a UJA shall be conducted by the Executive Ethics Commission and not under any of those Acts. [5 ILCS 430/20-55(d)]

- a) If the penalty to be imposed on an affected person is removal, discharge, demotion or suspension for a period of more than 30 days within a 12-month period or, if the Commission determines that a hearing is appropriate pursuant to Section 1620.1100, the Chair or Administrative Law Judge, if any, shall set the matter for hearing.

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- b) For purposes of such hearings, the agency has the burden of proof ~~and is designated the Petitioner; the employee is designated the Respondent.~~
- c) Hearings and pre-hearing matters will be conducted in accordance with Sections 1620.490, 1620.500, 1620.510, 1620.520 and 1620.530.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART L: PROCUREMENT CODE PROVISIONS CONFLICTS OF INTEREST
EXEMPTIONS

Section 1620.1270 Prohibited Bidder Exceptions for Higher Education

The Chief Procurement Officer for Higher Education may file a request for the Executive Ethics Commission's approval to permit a public institution of higher education to accept a bid or enter into a contract with a business that assisted the public institution of higher education in determining whether there is a need for a contract or assisted in reviewing, drafting, or preparing documents related to a bid or contract. [30 ILCS 500/1-13(e)]

- a) The approval request shall be in writing and shall include:
 - 1) a description of the bid or contract including the total contract price and the relationship to the research needs of the public institution of higher education.
 - 2) a description of the assistance provided by the vendor to the public institution of higher education, and
 - 3) an explanation of the reasons for selecting the vendor and of why it is in the best interest of the public institution of higher education to accept the bid or contract, notwithstanding the restrictions of Section 50-10.5(e) of the Procurement Code.
- c) The Commission shall respond in writing to the approval request within 10 calendar days by either requesting more information or with an approval or denial of the request.
- d) Upon receipt of the Commission's approval or denial of the request, the Chief Procurement Officer for Higher Education shall publish the approval request and the Commission's decision in the online electronic Illinois Procurement Bulletin.

ILLINOIS REGISTER

EXECUTIVE ETHICS COMMISSION

NOTICE OF PROPOSED AMENDMENT

(Source: Added at 42 Ill. Reg. _____, effective _____)