**Section 101.114 Ex Parte Communications**

a) For this Section, "interested person or party" *means a person* or *entity whose rights, privileges*, *or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, investment, or licensing matter.* [5 ILCS 430/5-50(d)] For this definition, a time-limited water quality standard proceeding is considered a regulatory matter.

b) For this Section, "Executive Ethics Commission" means the commission created by the State Officials and Employees Ethics Act [5 ILCS 430].

c) Adjudicatory, Regulatory, and Time-Limited Water Quality Standard Proceedings. Board members and Board employees must not engage in an ex parte communication designed to influence their action regarding an adjudicatory, a regulatory, or a time-limited water quality standard proceeding pending before or under consideration by the Board. (See definition of "ex parte communication" in Section 101.202.) Whenever practicable, an interested person or party or his or her official representative or attorney should make all communications regarding an adjudicatory, regulatory, or time-limited water quality standard proceeding pending before or under consideration by the Board in writing and address them to the Clerk rather than to individual Board members or Board employees. (See Sections 101.110 and 101.628.)

d) Nothing in this Section precludes Board members or Board employees from receiving informal complaints about individual pollution sources, or forbids the administrative contacts as would be appropriate for judges and other judicial officers. Information about a pollution source included in the record of a regulatory or time-limited water quality standard proceeding is not an ex parte communication regarding any adjudicatory proceeding concerning the pollution source.

e) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication from an interested person or party or his or her official representative or attorney, the recipient, in consultation with the Board's ethics officer or his or her designee, will promptly memorialize the communication and make it part of the record of the proceeding. To make an oral ex parte communication part of the record, the substance of the oral communication, along with the identity of each person involved in the communication, will be either stated in a memorandum and placed in the record or announced on the record at a public hearing.

f) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication, other than an ex parte communication received from an interested person or party or his or her official representative or attorney, that communication will be promptly reported to the Board's ethics officer or his or her designee *by the recipient of the communication and by any other employee of the Board who responds to the communication*.

1) *The ethics officer* or his or her designee, in consultation with the recipient of the ex parte communication, will ensure *that the ex parte communication is promptly made part of the record of the proceeding.* [5 ILCS 430/5-50(c)]

2) *The ethics officer* or his or her designee, in consultation with the recipient of the ex parte communication, will *promptly file the ex parte communication with the Executive Ethics Commission, including:*

A) *All written communications;*

B) *All written responses to the communications;*

C) *A memorandum prepared by the ethics officer stating the nature and substance of all oral communications;*

D) *The identity and job title of the person to whom each communication was made;*

E) *All responses made;*

F) *The identity and job title of the person making each response;*

G) *The identity of each person from whom the written or oral ex parte communication was received;*

H) *The individual or entity represented by that person;*

I) *Any action the person requested or recommended; and*

J) *Any other pertinent information.*

3) *The disclosure shall also contain the date of any ex parte communication*. [5 ILCS 430/5-50(c)]

(Source: Amended at 43 Ill. Reg. 9674, effective August 22, 2019)