

1 AN ACT concerning ethics.

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

4 Section 5. The State Officials and Employees Ethics Act is
5 amended by changing Section 20-50 as follows:

6 (5 ILCS 430/20-50)

7 Sec. 20-50. Investigation reports; complaint procedure.

8 (a) If an Executive Inspector General, upon the conclusion
9 of an investigation, determines that reasonable cause exists to
10 believe that a violation has occurred, then the Executive
11 Inspector General shall issue a summary report of the
12 investigation. The report shall be delivered to the appropriate
13 ultimate jurisdictional authority and to the head of each State
14 agency affected by or involved in the investigation, if
15 appropriate. In the event that the head of the State agency or
16 the ultimate jurisdictional authority agrees with the
17 Executive Inspector General, on the basis of the investigation,
18 to impose discipline on a State employee, then within 30 days
19 after that agreement the Executive Inspector General shall
20 deliver to the Executive Ethics Commission the summary report
21 of the investigation, provided that all confidential
22 information has been redacted. Discipline means discharge,
23 suspension, demotion, change in duties or job description, or

1 denial of promotion or transfer. A redacted report must not
2 contain the names of, or other identifying information about,
3 the employing State agency and any person. A redacted report
4 may contain only factual information, the provision, if any, of
5 Article 5, 10, or 15 or Section 20-70 or 20-90 of this Act
6 allegedly violated, the history or background of the alleged
7 violation, and the discipline recommended, if any. Within 5
8 days, the Commission shall provide the State employee subject
9 to the agreed discipline with the redacted report and allow the
10 State employee 30 days in which to provide in writing any
11 reason why the redacted report should not be released to the
12 public. Within the same period, the Executive Inspector General
13 who issued the report may also provide in writing a
14 recommendation to the Commission about whether or not the
15 redacted report should be released to the public. Within 21
16 days after the expiration of the 30-day period for response by
17 the State employee and Executive Inspector General, the
18 Commission shall either: (1) make a written finding that
19 release of the redacted report is fair and in the public
20 interest and release the report; or (2) make a written finding
21 that release of the report is not fair, or not in the public
22 interest, and return the redacted report to the Executive
23 Inspector General. The Commission may also require further
24 redactions prior to the release of the report or may delay its
25 finding pending the conclusion of related judicial or
26 administrative proceedings.

1 (b) The summary report of the investigation shall include
2 the following:

3 (1) A description of any allegations or other
4 information received by the Executive Inspector General
5 pertinent to the investigation.

6 (2) A description of any alleged misconduct discovered
7 in the course of the investigation.

8 (3) Recommendations for any corrective or disciplinary
9 action to be taken in response to any alleged misconduct
10 described in the report, including but not limited to
11 discharge.

12 (4) Other information the Executive Inspector General
13 deems relevant to the investigation or resulting
14 recommendations.

15 (c) Not less than 30 days after delivery of the summary
16 report of an investigation under subsection (a), if the
17 Executive Inspector General desires to file a petition for
18 leave to file a complaint, the Executive Inspector General
19 shall notify the Commission and the Attorney General. If the
20 Attorney General determines that reasonable cause exists to
21 believe that a violation has occurred, then the Executive
22 Inspector General, represented by the Attorney General, may
23 file with the Executive Ethics Commission a petition for leave
24 to file a complaint. The petition shall set forth the alleged
25 violation and the grounds that exist to support the petition.
26 The petition for leave to file a complaint must be filed with

1 the Commission within 18 months after the most recent act of
2 the alleged violation or of a series of alleged violations
3 except where there is reasonable cause to believe that
4 fraudulent concealment has occurred. To constitute fraudulent
5 concealment sufficient to toll this limitations period, there
6 must be an affirmative act or representation calculated to
7 prevent discovery of the fact that a violation has occurred. If
8 a petition for leave to file a complaint is not filed with the
9 Commission within 6 months after notice by the Inspector
10 General to the Commission and the Attorney General, then the
11 Commission may set a meeting of the Commission at which the
12 Attorney General shall appear and provide a status report to
13 the Commission.

14 (d) A copy of the petition must be served on all
15 respondents named in the complaint and on each respondent's
16 ultimate jurisdictional authority in the same manner as process
17 is served under the Code of Civil Procedure.

18 (e) A respondent may file objections to the petition for
19 leave to file a complaint within 30 days after notice of the
20 petition has been served on the respondent.

21 (f) The Commission shall meet, either in person or by
22 telephone, in a closed session to review the sufficiency of the
23 complaint. If the Commission finds that complaint is
24 sufficient, the Commission shall grant the petition for leave
25 to file the complaint. The Commission shall issue notice to the
26 Executive Inspector General and all respondents of the

1 Commission's ruling on the sufficiency of the complaint. If the
2 complaint is deemed to sufficiently allege a violation of this
3 Act, then the Commission shall notify the parties and shall
4 include a hearing date scheduled within 4 weeks after the date
5 of the notice, unless all of the parties consent to a later
6 date. If the complaint is deemed not to sufficiently allege a
7 violation, then the Commission shall send by certified mail,
8 return receipt requested, a notice to the parties of the
9 decision to dismiss the complaint.

10 (g) On the scheduled date the Commission shall conduct a
11 closed meeting, either in person or, if the parties consent, by
12 telephone, on the complaint and allow all parties the
13 opportunity to present testimony and evidence. All such
14 proceedings shall be transcribed.

15 (h) Within an appropriate time limit set by rules of the
16 Executive Ethics Commission, the Commission shall (i) dismiss
17 the complaint or (ii) issue a recommendation of discipline to
18 the respondent and the respondent's ultimate jurisdictional
19 authority or impose an administrative fine upon the respondent,
20 or both.

21 (i) The proceedings on any complaint filed with the
22 Commission shall be conducted pursuant to rules promulgated by
23 the Commission.

24 (j) The Commission may designate hearing officers to
25 conduct proceedings as determined by rule of the Commission.

26 (k) In all proceedings before the Commission, the standard

1 of proof is by a preponderance of the evidence.

2 (1) When the Inspector General concludes that there is
3 insufficient evidence that a violation has occurred, the
4 Inspector General shall close the investigation. At the request
5 of the subject of the investigation, the Inspector General
6 shall provide a written statement to the subject of the
7 investigation and to the Commission of the Inspector General's
8 decision to close the investigation. Closure by the Inspector
9 General does not bar the Inspector General from resuming the
10 investigation if circumstances warrant.

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