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Memorandum

DATE: October 31, 2012
TO: Members of the Medicaid Advisory Committee
FROM: Julie Hamos
Director
RE: Medicaid Advisory Committee (MAC) Meeting

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The next meeting of the Medicaid Advisory Committee is scheduled for Friday, November 16, 2012. The meeting will be held via videoconference from 10 a.m. to 12 p.m. Those attending in Springfield will meet at 201 South Grand Avenue East, 3rd floor video-conference Room B. Those attending in Chicago will meet at 401 South Clinton, 1st floor video-conference room. Please note the location change for the Chicago location. You will find the previous notice included.

Attached, please find the draft minutes from the September 21, 2012 meeting. Also attached is the agenda, documents for the 2012 Ethics Training, and a copy of HFS' letter encouraging CMS to approve the Cook County 1115 waiver. As part of the department's ongoing efforts to reduce administrative cost, copies of the material will not be available at the meeting. Participants should plan on bringing their own copies.

The material has also been posted to the Department's Web site at:
<http://www.hfs.illinois.gov/mac/news/>

If you have any questions, or need to be reached during the meeting, please call 217-782-2570.

MEDICAID ADVISORY COMMITTEE

401 S. Clinton
1st Floor Video Conference Room
Chicago, Illinois

and

201 South Grand Avenue East
3rd Floor Video-conference Room
Springfield, Illinois

November 16, 2012
10 a.m. - 12 p.m.

AGENDA

- I. Call to Order
- II. Introductions
- III. Approval of July 20, 2012 Meeting Minutes
- IV. Old Business
 - a. Cook County 1115 Waiver Letter
- V. Ethics Training 2012
- VI. Director's Report
 - a. ACA Update
- VII. EEV
- VIII. Subcommittee Report
 - a. Access Subcommittee Report
 - b. Long Term Care Subcommittee Report
 - c. Public Education Subcommittee Report
- IX. Update on SMART Act 2840
- X. Update on Care Coordination Initiatives
 - a. Innovations Project
 - b. Dual Medicare/Medicaid Care Integration Financial Model Project
 - c. 1115 Waiver Demonstration Project
- XI. Open to Committee
- XII. Adjournment

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**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

401 S Clinton Street, Chicago, Illinois
201 S. Grand Avenue East, Springfield, Illinois

Members Present

Susan Hayes Gordon, Chairperson
Mary Driscoll, DPH
Edward Pont, ICAAP
John Shlofrock, Barton Mgt.
Eli Pick, Post Acute Innovations
Judy King
Andrea Kovach, Shriver Center
Joe McLaurin for Linda Shapiro, ACHN
Jan Grimes, IHHC

HFS Staff

Julie Hamos
Theresa Eagleson
James Parker
Jacqui Ellinger
Arvind Goyal
Robyn Nardone
Debra Clemons
Sally Becherer
Kim Wagenaar
Andrea Bennett
James Monk

Interested Parties

Craig Alexander, Community Care Alliance
Christopher Beal, OAP
Jane Bilger, CSH
Kathy Bovid, Bristol-Meyers Squibb
John Bullard, Amgen
Chris Burnett, IARF
Mary Capetillo, Lilly
Kelly Carter, IPHCA
Carrie Chapmen, LAF
Joe Cim, AHS
Viviane Clement, Shriver
Laurie Cohen, Civic Federation
Mathew Collins, Health Spring
Danielle D'Alessandro
Melissa Dannenberg, Molina Healthcare
Dru Duncan, Pfizer Inc
Chris Dunn, Conlon & Dunn Public Strategies
Andrew Fairgrieve, HMA
Gary Fitzgerald, Harmony-Wellcare
Ramon Gardinhire, Aids Foundation of Chicago
Donna Gerber, BCBSIL
Dean Groth, Pfizer

Members Absent

Kathy Chan, IMCHC
Glendean Sisk, DHS
Sue Vega, Alivio Medical Center
Renee Poole, IAFP
Karen Moredock, DCFS

Interested Parties

Marvin Hazelwood, Consultant
Brian Hedinger, Jazz Pharma
Joe Holler, IHA
Nadeen Israel, Heartland Alliance
John Jansa, Molina Health
Glen Johnston, GSK
Andy Kane, Kane Consulting
Nicole Kazee, U of I Health Systems
Kristin Keim, Abbott
Mary Kennedy, ACAP
Keith Kudla, FHN
Phillipe Largent, Consultant
Dawn Lease, Johnson & Johnson
Helena Lefrow, MCHC
Shari Lewis, SCCP
Mona Martin, PHRMA
Deb Matthews, UIC-DSCC
Robert Medonsa, Aetna Better Health
Diane Montañez, Alivio Med Center
Heather O'Donnell, Thresholds
Ena Pierce, HealthSpring
Luis Quinones, ICIRR
Sam Robinson, Canary Telehealth
Tony Rossi, Med Immune
Joel Roth, University of Chicago
Phyllis Russell, ACMHAI
Ken Ryan, ISMS
Nancy Sacks, Community Care Alliance
Amy Sagen, UI Hospital & HS
Robert Spaulding, Healthcare Plus Senior Care
Michael Specht, Pfizer
Bernis Stetz, Molina Healthcare
Johnathan Thomberi, Byrain Healthcare
Cynthia Waldeck, Heartland Alliance
Matt Werner, Consultant
JulieYoungquist, Lawrence Hall Youth Services

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

I. Call to Order

Chairperson Susan Gordon called the meeting to order at 10:04 a.m.

II. Introductions

Attendees in Springfield and Chicago introduced themselves.

III. Approval of July 20, 2012 Meeting Minutes

Dr. Judy King asked that the following sentence be added to the 3rd to last paragraph on page 4: HFS should assess the impact of this policy change on women's access to these contraceptive devices. With this change, minutes were approved.

IV. Director's Report

- HFS Director, Julie Hamos began by welcoming new HFS medical director, Dr. Arvind Goyal. He has sat with us at the table before but was not officially appointed. We are pleased to welcome him now.
- HFS was recently blasted in a press release for something the department supposedly "didn't do". One of the important initiatives in the SMART act is requiring that HFS and DHS contract with a private vendor to make sure that all of the annual redeterminations get done. That ultimately means touching 2.7 million case files or 1.45 million cases. It is a big job. Getting these done annually is one place the departments fell down. With increased enrollments and caseworker capacity to serve diminished, the DHS (FCRC) offices were overwhelmed by enrollment and caseload demands. Because of this, the annual redeterminations were not getting done.

The Governor and the department embraced the concept that additional resources were needed to do this job well. Maintaining the integrity of the public assistance program is just as important as anything else the department is doing. Under the SMART act the department could look for a private vendor to provide back-up support to casework staff in completing redeterminations or canceling cases, which are actions set by federal law that only casework staff may complete.

The vendor would provide two kinds of support. One is data matching that uses sophisticated national databases to determine things like income, assets and residency status. The second support is setting up an eligibility call-center that would be in touch with clients in case there is a question that is uncovered in the data match. The vendor plans to bring in nearly 500 people when fully staffed. Once the vendor has all the backup information in place it would be shipped to the caseworkers to make the final eligibility decision.

HFS took this responsibility very seriously. On the date the Governor signed the bill, June 13th, HFS set out to create an RFP from scratch. An RFP was issued one month later. HFS held the mandatory bidders' conference giving potential bidders a chance to ask questions. HFS staff responded to 200 questions. The bids were evaluated. One month after the RFP was released. HFS issued a recommendation to award on August 13th.

HFS had one month to negotiate the contract with the new vendor, Maximus. Their subcontractor for the data matching is HMS, a national database firm. This was completed on September 13th. It was important to build performance measures in the contract to ensure that cases were not simply being eliminated when clients actually remained eligible or inadequate planning created backlogs, or that clients had long wait times to contact the call center.

Five days later there was a press release accusing the department of "dragging our feet". The person responsible for the press release filed a resolution stating that the contract work should begin on October 1, just 2 weeks after signing. This was problematic in that what HFS is trying to do is move things forward. The vendor, acting responsibly, had stated that it will take three months to get the contract started. Time is needed to sign a lease, set up furniture, phone lines and computers for 500 people, as well as hire and train people. The department and vendor must write protocols for cases with complicated factors, figure out a mechanism to transfer data back and forth, and determine what data is usable. The director stated that the department would not start the program until it is ready to roll out.

Q: Dr. Judy King stated that she had heard concern that the contract is an attempt to eliminate people from access to care. She'd like to see what performance measures are being used. Her understanding is there will be projected savings of \$350 million. She would like to know how the savings were determined. She referred to an All Kids map of procedures that she had sent to members this morning and would like to see a similar map to see how the changes would allow the savings.

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

A: Director Hamos stated the savings figure is not the department's number. As far as she knows there's no methodology behind it. The number got put into the budget but not by HFS. She advised that there are no incentives in the contract to cancel cases. There is a concept called "churning" that refers to a person being canceled because staff can't find them but they come back on the roles as eligible and needing service. HFS will be auditing the contractor to look at the churn rate. This will be one of the performance measures. HFS is not intending to knock people off but to restore program integrity. The performance measures are in the contract and the contract will be made available as we move through the process.

Q: Andrea Kovach asked if the departments have adequate staff to spend the time needed to make the final determinations.

A: Director Hamos replied that she believes staff understands that redeterminations are part of their responsibility. The law includes timelines for making those final decisions. The departments believe that some of the current casework responsibilities will be dealt with through the vendor's backup support. This will free up some time for caseworkers.

- Director Hamos reported on concerns regarding rollout of the Affordable Care Act (ACA) and what needs to be done in relationship to the state legislature. The department is estimating about 592,000 persons with income under 133% of poverty that are potentially eligible for medical benefits. The department believes that in the first year, there will be about a 50% take-up rate or about 296,000 persons will apply. Of those about 198,000 persons will be new enrollees and the others will be people that already qualify but have not yet enrolled. People that are qualified but not enrolled are referred to as "woodwork" as they come out of the woodwork to now apply. Over the next 3-4 years the numbers will ratchet up but there will still be some people potentially eligible that won't enroll.

HFS and other state Medicaid departments have been debating what the Supreme Court has said about ACA. In Illinois, all of our eligibility policies and service packages are set out in law and administrative rules. Illinois has laws that are very detailed on every aspect of Medicaid. Therefore, HFS can't think about serving these new enrollees without getting legislative authorizations on serving them and what their benefit package will entail. HFS will need to get this done during the fall veto session that will go up to January 9th, before the new session begins. If we don't get authorization until the end of the next session, we will not be able to roll this out in January.

One of the questions legislators will have is what benefits will the new enrollees be entitled to. This is a conversation that we still need to have. Director Hamos stated that she is still trying to figure out how to involve the MAC in this process. It is very difficult now to have this discussion right before the election as one day can decide which of two different directions we might be going. There is six weeks before the election. But if we wait this long before discussing there will not be much time for making the necessary decisions.

Q: Chairperson Gordon asked if the benefits of the new clients would be different than those of current clients or is the plan to have benefits that are uniform with existing ones.

A: Ms. Ellinger stated that under the ACA, Illinois can establish a separate benchmark benefit for new members. There are some essential medical benefits that are defined by the federal government. They have put out minimum guidance on what that includes. One concern in Illinois is that if a person is entering a nursing home, there is an asset test. This is of interest because we want people to use their own assets to pay for care before receiving taxpayer support. Most of middle class America may disagree, but it is our policy. For the newly eligible population, people who need long term care are likely to qualify as aged or having a disability and able to qualify under an old rule. It seems that loosening the rule and not having an asset test doesn't make sense for the state. HFS could make community based services available to the new enrollees or put limitations on pharmacy or other kinds of services that we don't have in long term care today. The long term care area is a place that there will be a lot of discussion.

Q: Chairman Gordon asked if the comments that were due two days ago on essential benefits would be factored into the discussion about the legislation.

A: Director Hamos responded that the comments influence discussions with the federal CMS. There are two things going on right now. HFS is planning for the expanded Medicaid group. At the same time, the state of Illinois through the Dept. of Insurance, as the lead agency and the Health Reform Implementation Council is also planning for the Health Benefits Exchange to determine what kind of plans will be offered and what the plans will have to offer to become qualified. That is the essential health benefit plan. There is a whole other effort going on to reach out to the public to get input on what should

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

be included in that. The federal government just gave some general guidelines. Now they will take those comments and try to give us some final rules.

Q: 1) Is any of this affected by the Cook County waiver meaning will one program override another? 2) For those “woodwork” enrollees, will the state be reimbursed by the feds for two years at 100%?

A: 1) Director Hamos answered the 1115 waiver has a narrower package of services and network. It is a managed care network of sorts. It is a 5 year waiver however HFS will have to agree with the feds on how we transition these waiver clients into whatever Medicaid expansion package is available. It may end up being only a 13 to 15 month waiver. 2) The federal government will reimburse for only the new enrollees at 100%. For a person who’d have qualified under the old programs, meaning children, parents, and seniors and people with disabilities, the reimbursement rate would be 50%.

Q: Chairperson Gordon asked going back to engaging the MAC as we think about this legislation, what is the best way for us to be helpful? We would want a system that is seamless as people go back and forth from the health benefits exchange to Medicaid and back again. We don’t want all these different benefit packages.

Eli Pick added that part of the difficulty is trying to follow several variables at once. We are talking about how the state is being reimbursed, what benefits are going to be available, and what providers are going to be responsible for them. It might be helpful if we try to separate the discussions. It is important for us to understand what the federal reimbursement level is to Illinois and what impact it will have on the funding available to pay for the benefits that will ultimately be in a package.

Historically under Medicaid, while different groups may have different benefit packages, groups within will always have the same type of benefit. In the private sector, within the same group there are different choices for an insurance plan. You could buy more insurance and have a higher benefit level. There may be some relevance to the discussion about different levels of benefits within the same group depending on the circumstances like old versus new or under a waiver and not under a waiver. It is very challenging to follow because we are talking about different variables all at the same time.

Director Hamos added that Mr. Pick hadn’t even added managed care as another variable.

A: Ms. Ellinger stated that we are all struggling in the same way as everything is moving so quickly and guidance from the feds is coming slowly. They know this because they are also struggling. Regardless of what we do with Medicaid, one of the most significant issues is this movement across the Medicaid threshold onto what will be the exchange in Illinois. Thinking about the exchange, people at that income level will virtually be fully subsidized by the federal government through a tax savings but only for a relatively basic plan. It is very likely that the Medicaid program could be richer than what they move to unless they somehow subsidize it themselves. The level of subsidy may be at 100% until income reaches 200% of poverty. Then it will tail-off until income gets to 400% of poverty. The subsidy will occur through the tax system. There’s no easy answer to how you could move across that line in the least disruptive way.

Q: Ms. Kovach stated that we have to get legislators onboard for the Medicaid expansion. The Shriver Center has put out documents about how this Medicaid expansion is the best deal for the state. What is the director hearing about the legislators’ biggest concerns that we can be addressing?

A: Director Hamos responded that she is not hearing anything real because we are caught up in this election. It isn’t possible now to have anything but a partisan discussion. The big challenge for HFS is that legislators are looking down the road to see how much the state will be on the hook. Along with this, legislators will say that the feds are telling us you’ll give us 100% but will they really stay with that commitment. Legislators will be worried about the long term liability for the state and will ask about the benefit plan. These are likely the two biggest concerns.

Q: Chairperson Gordon asked that if the Access subcommittee were going to take up this discussion about the benefits, what would be the right time for that discussion.

A: Director Hamos stated that if we were going to do this internally through the subcommittee, we should use the next six weeks to inform ourselves of what is potentially included, the trade-offs, the options and what are the issues. The biggest challenge in working through this process and getting this new Medicaid population onboard, her biggest concern is who is going to serve these clients. Where are the providers?

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

Dr. Pont added that it is very important to have continuity between the plans so providers can understand what they can do for their patients.

Chairperson Gordon would like to see this discussion taken up in the Access subcommittee.

V. Review of Amendment to MAC Bylaws

Mr. Pick read the proposed amendment which adds a new Section III, Vision Statement, to Article I of the Bylaws.

Mary Driscoll made a motion to revise the new section to read as follows: "It is the vision of the MAC to ensure that populations covered under HFS' Medical Assistance programs have timely access to quality care that meets their need regardless of factors such as race/ethnicity, primary language, geography or age". The motion to amend the amendment was seconded, voted on and accepted

A motion was made and seconded to accept the amended Bylaws. After discussion, a vote was taken and the amendment approved unanimously.

VI. Review of Access Subcommittee Charge

Chairperson Gordon referred to the revised charge for the Access subcommittee that was included with MAC meeting materials and had been approved at the July 20th MAC meeting.

VII. MAC Access Subcommittee Members

Chairperson Gordon stated that the MAC is continuing to look for members to serve on the subcommittee. She stated that there is a survey being sent to everyone who has indicated an interest.

Dr. King commented on the issue of amending the Bylaws. She asked what is the meaning of this change if you can't ask HFS to have that same agenda. This MAC was not able to ask the department to have a racial justice or social justice agenda. She stated that it was her insistence that the issues be put on the table and voted on. Putting these things in the Bylaws was only a reaction to that. The question is how we push the agency to have the same kind of agenda. We're talking about who may be on the Access committee. We need to look at who has voice on all of these committees.

Ms. Ellinger responded that the Bylaws state in the second meeting of each year, the MAC will review the charge and membership of each subcommittee. This also could be done at anytime or meeting. So there is a responsibility and expectation for members to review these things. It can be raised as an issue if anyone is unhappy with the subcommittee composition. But again it is the will of the body. The body acted this way in reaction to what Dr. King had raised. We expect that the Access subcommittee will be reviewing issues and identifying things to recommend to the department. But the committee is advisory. Dr. King raised a significant issue and it is on paper now.

Director Hamos added that speaking as the director, we would very much welcome and really need your help in recruiting people of color to our committees to make sure we have balance and have the perspective of the people we serve.

Director Hamos stated that we decided to move forward rather quickly with this conversation about the expansion of Medicaid through the Access subcommittee. She asked how we plan to set up the subcommittee meeting and if the first meeting could be in mid-October.

Chairperson Gordon advised that setting the meeting date was dependent on getting the survey work completed with persons interested in serving and getting out the appointment letters. Assuming this can be done in the next few weeks, the first subcommittee meeting could be scheduled for mid-October. Suggestions for members of the subcommittee should be sent to HFS staff, Andrea Bennett at andrea.bennett@illinois.gov or to Chairperson Gordon or sgordon@luriechildrens.org

At Judy King's request, Ms. Ellinger described the Access subcommittee survey. It uses a questionnaire to collect demographic data about race/ethnicity, geographic location that person may be representing and areas of access interest. The purpose is to ensure diversity and distribution on the subcommittee. No one is obligated to complete the survey but it is required for appointment consideration. The information is not shared and only used internally for committee selection. She noted finding representatives for downstate, especially for southern Illinois can be more difficult.

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

The group had additional discussion on the survey methodology.

VIII. Approval of MAC 2013 dates

Chairperson Gordon referred to the handout of proposed MAC meeting dates for 2013. She noted that the dates are on Fridays but change to Thursday for the September and November meetings. A motion was made and seconded to accept the 2013 schedule. The proposed schedule was voted on and approved unanimously.

IX. Subcommittee Reports Open to Committee

a. Long Term Care (LTC) Subcommittee Report

The September 14th meeting had been canceled and so there was no report.

b. Public Education Subcommittee Report

John Jansa reported that the committee met on August 9. Frank Kizner of the Illinois Dept of Insurance (IDOI) discussed the final report from HMA on the Navigator program design. An essential finding was that while there are still a lot of details to work out, there is a consensus for a block grant approach to support these efforts. This program is the piece from the ACA to assist individuals to engage in and make selections in the insurance exchange. There was some concern expressed regarding how we are going to reach so many people statewide and about how the Navigator role would carry over if there were other issues or challenges like being dropped off an insurance plan. The report can be found at: <http://www2.illinois.gov/hfs/PublicInvolvement/BoardsandCommissions/MAC/News/Pages/080912.aspx> Mr. Kizner advised that he could attend future meetings to provide updates as this project is ramping up.

There was an ACA update regarding the status of the health benefits exchange in Illinois. It would be a federal/state partnership model that has HFS, IDOI and the feds working to ensure state certification and would require legislation.

There was an update on the Integrated Eligibility System (IES), the state of the art eligibility system that the state is undertaking. It was announced that Deloitte Consulting was recommended to receive an award to work on the IES development. CSG Government Solutions will be given the project management component. There is still a need for HFS to procure the independent verification vendor to do quality assurance. The goal is to have a basic version of IES in place by October 2013 with a start date for the complete eligibility system of January 2015.

The committee began the discussion on what the IES would be called. One suggested name was the Application for Benefits Enrollment or A.B.E. Other suggestions are welcomed.

There was an update by Lynne Thomas, All Kids Bureau Chief, on changes in the All Kids enrollment since July 1. About 28,000 parents lost eligibility for FamilyCare under the SMART act when the income standard was reduced from 185% to 133% of poverty. Children with income above 300% of poverty that were grandfathered in last year also lost eligibility as of July 1. All Kids staff members are making sure that parents have a chance for review for an accurate determination of eligibility.

Ms. Ellinger advised that she doesn't know how many parents have reenrolled. Women of children bearing age with income below 200% of poverty are automatically enrolled for Illinois Healthy Women for 3 months and may apply for an additional 9 months.

Mr. Jansa stated that at the last meeting there was a public involvement statement that the committee was given the chance to edit. The statement is a call to the general public to make them aware of the opportunity to participate in MAC committee meetings. There was a deadline for the middle of September to comment.

Ms. Ellinger added that this development of a statement was first raised at the Public Ed subcommittee. The committee made a lot of changes and the department appreciated the comments received. The public involvement statement is scheduled to be mailed with all medical cards at the end of November.

X. Update on SMART Act 2840

James Parker, Deputy Director of Operations, reported that HFS has filed reports with the medical legislative advisory group monthly. There were some 60 some measures that HFS was required to do and had filed a large set of emergency rules back in the summer. The Joint Committee on Administrative Rules (JCAR) has suspended 7 of those rules for various

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

reasons on a wide range of areas such as hospital required conditions, ambulance transportation and the 4-script limit. At the last JCAR meeting, HFS agreed to changes that have most of those back in place and is implementing them.

HFS is trying to put things in place to start measuring some savings. It is a little complicated because there are so many different cuts and measures. There are a large number of utilization controls that overlap with pharmaceuticals that make it difficult to tell which change is saving the money. Some savings are very clear. As mentioned, there were some people who were removed from the roles in July. There also were rate cuts that took place. There will be some more emergency rules coming forward in the next few months. We have some rules that are still suspended that we are working on a solution so we can get them through JCAR.

Mr. Parker took questions and some key points are summarized below.

- The antibiotics rule that was rejected came out of the 4-script rule. The rule was re-filed without antibiotics as an exempt class. The provider notice last week that listed antibiotics as not requiring prior approval went out while the exemption was still being reviewed. HFS is looking at approving antibiotics for short-term use and prior approval only if prescribed for long-term use.
- At the dental policy meeting there was a motion made to ask that the universities in Illinois with dental schools be exempt from the limits on the health network. HFS may only spend \$60 million on adult dental services. There will be attempts to tweak the law but HFS is not in a position to change the law. HFS is making a list of places where people would benefit from tweaks in the law and will potentially be able to work with the legislature on doing some changes.
- It will be difficult to know how the SMART act it is going without timely claims data. What could happen is that by the time the department gets the claims data in we will be into the spring legislative and not know how this is really going to come out. How the department is doing will impact the changes that advocates and provider groups want to restore some of the services that have been cut. The legislature will be looking at how HFS is doing in getting to our cost-saving targets. It is going to be very challenging to put that data forward next spring and know that we haven't got to those targets in many areas.

Chairperson Gordon advised that unless anything else on the SMART act, she wished to go to the next agenda item.

- Dr. King stated that she would like to make a motion. She referred first to Public Act 096-1501. Ms. Ellinger advised that this law is not the SMART act. Chairperson Gordon advised that that would actually be a new business item and asked if Dr. King would wait until then to make the motion.
- Dr. King made a motion that HFS and IDHS should seek emergency approval to restore medical assistance benefits to adults previously covered under the state-funded General Assistance program. The state should resume and continue to provide medical assistance until the Cook County "1115 Waiver" is authorized or until 2014 when this group of adults will be eligible for Medicaid under the Affordable Care Act.

Chairman Gordon asked if there is a second to the motion. There was not. The motion did not carry.

- Dr. King made a motion that the MAC recommends that HFS establish a Drug Utilization Review Committee consistent with federal law and compliant with the Illinois Open Meetings Act. She stated that the HFS Drug and Therapeutics Committee, managed by the University of Illinois and the Illinois Medical Society is lacking in transparency. Illinois is the only state without a public DUR and P and T review process.

Dr. Pont seconded the motion. He asked if the state's current drug therapeutic committee is transparent or not.

Mr. Parker responded that not UIC but the State Medical Society provides a Drug and Therapeutics Committee to the department. Parts of those meeting are open and parts are not. There was a lawsuit last year about whether the meeting violated the Open Meetings Act (OMA). The ruling of the court was that it doesn't violate the OMA. That committee is not the DRU committee. The department has appointed a DRU committee which is a totally separate committee in compliance with federal law. The committee is working to get out a report that federal law requires. He believed the timing for that is the end of this month or the end of October but not sure when that report is due. Mr. Parker did not know if the OMA applies to that committee. That committee is supposed to review data and file a report. He doesn't believe that it has any meetings that would be subject to OMA but stated that he is not an expert on that.

Ms. Driscoll asked who recommends drugs that would be on the Medicaid formulary.

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

Mr. Parker stated that in Illinois, we do not follow the formulary method that the Social Security Act requires. HFS is required to cover all drugs of companies that sign rebating agreements. By federal law we cannot cover the drugs of companies that do not sign the rebating agreements. The department does have a preferred drug list. That process is a two-step review. First, UIC has a contract that helps HFS develop recommendations for the list. That information is combined with our financial information. Those recommendations do go to the medical society's Drug and Therapeutics Committee.

Dr. King stated that she had filed a FOIA request a year ago and again a few months back. She asked for the minutes of the DRU committee and was told there was no DRU committee in Illinois. The question is will HFS make this a public committee so there is a forum for a lot of these issues on the SMART act could be discussed.

Mr. Parker responded that the DRU committee was reconstituted as a result of her inquiries.

Dr Pont made a motion to move to table Dr. King's motion until Mr. Parker reports back on how the DRU committee operates to better determine if there is transparency. The motion was seconded and approved by the MAC.

XI. Update on Care Coordination Initiatives Discussion of Subcommittees

a. Innovations Project

Mr. Parker reported that proposals for Care Coordination Entities (CCEs) for the Seniors and Persons with Disabilities population are in hand and the department has been reviewing them. An HFS review committee has been meeting weekly with the final meeting this afternoon. The department hopes to be making initial awards by the end of next week. Mr. Parker wanted to emphasize that the selection process is not "all or nothing". The initial awards do not mean that a bidder that doesn't get a reward next week will not get an award in the future. HFS is trying to pick the best and most ready proposals that are fundable and move forward. The department has limited capacity to try and implement all of them at one time so expects to award a handful of those at the beginning of next week.

b. Dual Medicare/Medicaid Care Integration Financial Model Project

The department has the dual capitation proposals in hand and would hope to announce the awards in the next week or two. HFS continues to be in discussion with the federal CMS on the final shape of the dual capitation plan. HFS is also working with the other demonstration states on some of the issues that have come up. The department is tentatively scheduled to begin these programs on April 1, 2013.

HFS recently had a meeting to discuss the CCE solicitation for complex children and had asked to get feedback by September 28th. After that feedback, HFS hopes to get that solicitation out in the beginning part of October.

c. 1115 Waiver Demonstration Project

Mr. Parker stated that HFS is working hard on that but he is not directly involved with the development. He believed that the department and Cook County Health and Hospital Systems are looking at a November 1 start date.

Ms. Ellinger added that Theresa Eagleson is now on a call with Cook County and the federal CMS negotiating. We are in the final stages of nailing down the terms and conditions that the feds apply to approve the waiver. Cook County is still working to put all the pieces together on how people will apply and developing the network. The Department of Human Services is working very hard on establishing capacity to determine eligibility under the waiver because that is a new set of rules. All of those pieces are getting worked on simultaneously.

Q: Matt Collins asked about the capitation project. Will the state of Illinois be moving forward with plan selections without a Memorandum of Understanding (MOU) from CMS?

A: Yes. On the duals, HFS will make the announcements but it is all contingent on CMS approval. The target for the MOU is no earlier than December 1 and perhaps later.

Q: Shari Lewis asked a about the Innovations project. **1)** Is the department still on track for to award 10 in the city of Chicago and 10 south? **2)** What is the criterion for selection?

A: **1)** No. That was going to be our maximum when there were initially 85 letters of intent. HFS is treating this as the federal Medicare/Medicaid Innovations center dealing with proposals before them. The proposals come in and they make rolling announcements. They select some and put the rest to the side. That is how the department expects to go on. The decision making is based on who is ready to start and who has the best proposals. This is the first time out. The

**Illinois Department of Healthcare and Family Services
Medicaid Advisory Committee - September 21, 2012**

department would like to work with some of the proposers to see if we could work on something for the next round. 2) The criteria were included in the proposal.

Q: Nadine Israel asked about the approval of CCE proposals that will be announced. Is the expectation that they will be off the ground on January 1, 2013?

A: It would be great if the department could do it. This is our expectation at present.

Q: With the announcements of the awards, is HFS taking into consideration that there is going to be a need for an opt-out for the Medicare portion of the dual solicitations? Will the department make sure that ground workers and caseworkers enrolling individuals tell clients that the options for CCEs or MCCNs are available to them versus the auto-assignment process that is happening now?

A: Opting out is only a duals issue. When the duals opt out of the Medicare portion, the CCEs are a potential option for the individual to opt onto. HFS is looking into that.

Dr. King made a motion that the MAC sends a letter to CMS requesting approval of the Cook County 1115 waiver. She stated that former general assistance clients lack medical coverage and could be enrolled for benefits under the Cook County waiver with CMS approval. The motion was seconded and there was discussion supportive of sending the letter.

The motion was called for a vote and was approved with all members in favor. The department would draft the letter for Chairperson Gordon's review and signature.

XII. Open to Committee

Kelly Carter stated that she was sad and upset about the attacks on the department that had been made at the press conference the director had referred to. She wanted to thank HFS staff for all the hard work they have done.

Ms. Ellinger stated that she is not hearing the voices out there saying that clients have due process rights or that nobody should lose benefits to which they are entitled. She stated that she is speaking for herself only. We have people's rights to protect here and have that obligation.

Chairperson Gordon asked if there is anything that people would like to raise for discussion at the next meeting. Member provided suggestions that included:

- Allocate a certain amount of time for each agenda item for the next meeting or discuss this at the next meeting
- Review of the PCCM program and the external reports for all the voluntary managed care plans. Include looking at all the measures for the individual voluntary managed care plans.
- An update on the enhanced eligibility verification (EEV) system.
- An update on the Affordable Care Act

Ms. Ellinger announced that the Public Ed subcommittee is meeting again on October 12. The committee asked to meet with our vendors. We may be able to meet with a Maximus representative then. She suggested watching for that agenda if interested in attending.

XIII. Adjournment

The meeting was adjourned at 12:05 p.m. The next meeting is scheduled for November 16, 2012.

401 South Clinton Street
Chicago, Illinois 60607-3800

Telephone: (312) 793-1984
TTY: (800) 526-5812

October 15, 2012

The Honorable Kathleen Sebelius
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Madam Secretary:

On behalf of the Illinois Medicaid Advisory Committee, I would like to request that the Centers for Medicare and Medicaid Services (CMS) approve the Cook County 1115 waiver, Illinois County Care, without delay.

Prior to July 1, 2012, the Illinois General Assistance program provided limited medical benefits to adults with extremely limited or no financial resources and considered not employable. That program was eliminated on June 30, 2012. The individuals who had been covered by GA fall into the "new eligibles" Medicaid group created by the Affordable Care Act. The implementation of the Cook County 1115 waiver program will provide a much need source of care for them.

Thank you for your consideration of this important request.

Sincerely,



Susan Hayes Gordon, Chairperson
Illinois Medicaid Advisory Committee

cc: Illinois Medicaid Advisory Committee Members
HFS Director, Julie Hamos
Theresa Eagleson, Administrator, Medical Programs
Ram Raju, M.D., CEO, Cook County Health and Hospitals System

401 South Clinton
Chicago, Illinois 60607

Telephone: (312) 793-0753
TTY: (312) 793-2697

MEMORANDUM

TO: Appointees and Employees of State of Illinois (SOI) Boards Subject to the Authority of the Office of the Executive Inspector General for the Agencies of the Illinois Governor

FROM: Shannon Stokes
Ethics Officer, Department of Healthcare and Family Services (HFS)

DATE: September 21, 2012

SUBJECT: Ethics Training for Appointees & Employees of SOI Boards

All persons appointed to a position in or with a State agency, regardless of whether the position is compensated, **must** annually complete ethics training. As a result, Appointees and Employees of SOI Boards subject to the authority of the Office of the Executive Inspector General (OEIG) for the agencies of the Illinois Governor must complete the attached ethics training by December 14, 2012 for processing by HFS. A legislator who has already completed the ethics training in the course of SOI employment/public service is not required to complete the attached training as an additional and separate requirement of SOI Board appointment and employment. For all other appointees, failure to complete the training will result in the **OEIG initiating an inquiry** of the failure of the appointee/employee to comply with a mandatory and statutory ethics requirement and may affect other duties of the appointee/employee.

In order to complete the training, please follow the steps below.

Steps

1. Print and carefully read the **entire** contents of the Ethics training information.
2. Once you have read all course material, **sign** and complete the "Acknowledgment of Participation." Fax a **signed** copy to Jeff Pentzien at 217-557-4378.
3. **Send the original** signed copy indicating that you read the material to:
Jeff Pentzien
Department of Healthcare and Family Services
Bureau of Training
2946 Old Rochester Road
Springfield, IL 62703

If you have already taken the ethics training for SOI board appointees/employees for 2012, please fax a copy of your "certificate of completion" to Jeff Pentzien at 217-557-4378. If you have questions, please contact the HFS Ethics Officer, Shannon Stokes, at 312-793-7935.

Thank you for your cooperation and attention to this important training mandate.



OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR

32 WEST RANDOLPH STREET, SUITE 1900
CHICAGO, ILLINOIS 60601
(312) 814-5600

2012 Mandatory Ethics Training Notice

Dear State Appointee:

The purpose of this correspondence is to inform you of your obligation to participate in ethics training as required under the State Officials and Employees Ethics Act (5 ILCS 430/5-10) (“Ethics Act”). Under the Ethics Act, appointees to State boards and commissions must complete an appropriate ethics training course at least once each calendar year. Furthermore, State law requires new appointees to complete ethics training within 30 days of the commencement of their appointment.

Although many appointees to State boards and commissions receive no compensation from the State for their service and may only serve on a part-time or intermittent basis, they are nevertheless required to comply with the Ethics Act. For purposes of the Ethics Act, appointees are considered State employees and are therefore obligated to participate in State employee ethics training.

Please take sufficient time to familiarize yourself with the information provided in this ethics training course. I also strongly encourage you to become familiar with any additional laws, rules, policies, or regulations that are specific to your particular board or commission. These specific laws and rules may, for example, govern how your board conducts its business.

Questions about an ethics-related matter concerning your service to the State may be directed to your board’s designated ethics officer, whose responsibilities include providing guidance to State employees and appointees. Additionally, if you need to report a non-emergency violation of the law by a State official, employee, or appointee or someone doing business with the State, you may do so by contacting this Office’s toll-free hotline at 866.814.1113 or via the Web at: <http://www.inspectorgeneral.illinois.gov>.

To meet your 2012 ethics training obligation as an appointee, you must complete the attached training course. Upon completion of its reading materials, you must also sign and submit its Acknowledgement of Participation form as instructed by your board or commission (typically, these forms are to be submitted to your board’s ethics officer). Submittal of the form serves as the formal record of your compliance.

Furthermore:

- You are asked to complete this course and submit the Acknowledgement of Participation form at your earliest convenience, but not later than the deadline provided by your State board or commission.
- Annual ethics training is required of you as long as your appointment remains in effect, even if the board that you serve has not recently met.

- You must complete this training, in most instances, even if you have participated in another form of ethics training (such as Internet-based training because you are coincidentally a full-time employee of another State agency). Exceptions are generally limited under the law to appointees who are also members of the legislative or judicial branches of State government.
- You must only complete the attached “appointee” training course once each calendar year. Therefore, if you serve on more than one board under the jurisdiction of the Office of Executive Inspector General for the Agencies of the Illinois Governor and you have already completed this training this year; please notify the ethics officer for each board so that each may properly report your compliance.

Please contact the ethics officer for the State board or commission from whom you received this notice if you believe that you have received this notice in error or if you have questions concerning the subject matter of this training or any ethics issue concerning your service to the State.

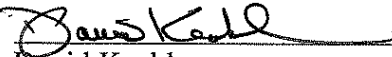
Failure to complete this training may result in withdrawal of your appointment and may subject you to administrative action by the Illinois Executive Ethics Commission for violating the Ethics Act.

Individuals with disabilities, who may be in need of an accommodation to participate in ethics training, are required to give appropriate notice to their State board.

Thank you, in advance, for your commitment to acting with honesty and integrity in the performance of your duties as a State appointee.

Sincerely,

Ricardo Meza
Executive Inspector General

By:  _____
David Keahl
Director of Ethics Training and Compliance



2012 ETHICS TRAINING

FOR APPOINTEES TO STATE OF ILLINOIS BOARDS

SUBJECT TO THE AUTHORITY OF THE OFFICE OF EXECUTIVE INSPECTOR GENERAL
FOR THE AGENCIES OF THE ILLINOIS GOVERNOR

DATE OF ISSUE: JANUARY 2012

Note: This training course has been developed in accordance with the requirements of the State Officials and Employees Ethics Act (5 ILCS 430/5-10). It has been developed for this purpose under the direction of the Office of Executive Inspector General for the Agencies of the Illinois Governor ("the OEIG"). Not for use by other than State of Illinois employees, appointees or officials without the express prior consent of the OEIG.

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Table of Contents

Introduction/General Principles	3
Ethics Officers	4
Executive Ethics Commission	4
Office of Executive Inspector General	4
Ethics Training	5
Official Misconduct, Bribery, and Solicitation Misconduct	6
Personnel Policies	7
Time Sheets	7
Conflicts of Interest	7
Prohibited Political Activities	10
Political Contributions on State Property	13
Prohibited Offer or Promise	13
Prohibited Public Service Announcements and Other Promotional Material	14
Ban on Gifts from Prohibited Sources	14
Revolving Door (Non-State Employment) Restrictions	17
Additional Appointee Restrictions	20
Whistle Blower Protection	22
Reporting Violations of Law, Rule, Regulation, or Policy	23
Rights and Responsibilities During Investigations	23
Ex Parte Communications	25
Disclosure of Economic (Financial) Interests	31
Truthful Oral and Written Statements	32
State Agency Policies	33
Penalties	34
Ethics Questions or Concerns	35
Examples of the Ethical Obligations of State Employees and Appointees	35
Acknowledgement of Participation Form	39

“In recent years, she was required to take annual ethics training that covered issues related to prohibited political activities. She should have known better.” (EEC decision #11-EEC-005)

These are words from an Executive Ethics Commission decision. They are in explanation of the commission’s decision to levy a \$4,000 fine against the former executive director of the Illinois Board of Higher Education, for violating the Ethics Act. These words are a reminder of the importance of learning about and complying with the law.

As a person appointed to a position in or with a state agency, board, or commission, you are subject to various laws, rules, and policies that typically apply to state employees. Although many appointees to state boards and commissions receive no compensation from the state and may only serve on a part-time or intermittent basis, they, like all appointees, are nevertheless subject to the State Officials and Employees Ethics Act (Ethics Act), 5 ILCS 430 et seq. **For purposes of the Ethics Act, all appointees are considered state employees.**

Generally, the Ethics Act and many other ethics-related laws, rules, and policies apply to you regardless of who appointed you and, with few exceptions, apply regardless of other positions you may hold, such as that of a locally elected official or municipal employee. These laws and rules are intended to ensure that the functions of state government are conducted with fairness, honesty, and integrity. That is, in part, what it means to follow the principles of **ethics**.

Your official actions and those of your fellow appointees may have significant economic and social consequences for the citizens of Illinois. Therefore, it is important that your official actions are made in the best interests of the state and in a manner that is consistent with all applicable laws, rules, policies, and regulations.

Like others who serve the state as appointees, employees, or officials, you must use state-provided resources in the most productive and efficient way possible and generally, only for the work of state government. You must avoid placing your personal or financial interests in conflict with those of the state. If you have knowledge of conduct by a state employee, appointee, or official, or those doing business with the state that is either unethical or unlawful, you have an obligation to notify the appropriate authorities.

It is your responsibility to become familiar with and obey the laws, rules, policies, and regulations that apply to you. If you have a question about either the legality or ethics of a matter related to state government, you may discuss the matter with the ethics officer for the state board or commission, which you serve, or you may seek private legal counsel.

Ethics Officers

By law, each state agency, including each state board, is required to designate an ethics officer. Ethics officers:

- act as liaisons between their state agencies and the appropriate Executive Inspector General and the Executive Ethics Commission;
- review employees' statements of economic interests before they are filed with the Secretary of State (these statements will be discussed later in this training); and
- provide guidance to state employees in the interpretation and implementation of the State Officials and Employees Ethics Act.

You should have been furnished the name of your board's ethics officer and information on how to contact him or her when you were notified of the need to complete this training course. It is recommended that you write the name and contact information for your board's ethics officer on the cover sheet of this training package and keep it as a reference should you have future questions concerning an ethics matter related to your position with the state.

For your reference, a list of ethics officers for state agencies and boards under the jurisdiction of the Office of Executive Inspector General for the Agencies of the Illinois Governor may be found via the Internet at: <http://www.inspectorgeneral.illinois.gov>.

Executive Ethics Commission

www2.illinois.gov/eec

Established in 2004, the Executive Ethics Commission (EEC), in conjunction with the Executive Inspectors General and the Attorney General, is responsible for the oversight of, compliance, implementation, and enforcement of the State Officials and Employees Ethics Act. The commission consists of nine commissioners, appointed on a bipartisan basis, and it exercises jurisdiction over all officers, appointees, and employees of state agencies under the six executive branch constitutional officers of the state, as well as the nine state public universities. It also has jurisdiction over the four regional transit boards, i.e., the RTA, the CTA, Metra, and Pace.

The commission promulgates rules governing investigations of the Executive Inspectors General, prepares public information materials to facilitate compliance with ethics laws, provides guidance to ethics officers, reviews reports of activity from Executive Inspectors General and reports of ex parte communications from ethics officers, oversees employee ethics training, and conducts administrative hearings related to alleged violations of the Ethics Act. For further information about the Executive Ethics Commission, visit its Web site at: <http://www2.illinois.gov/eec>.

Office of Executive Inspector General

www.inspectorgeneral.illinois.gov

Established in 2003, the Office of Executive Inspector General for the Agencies of the Illinois

Governor (OEIG) is an independent state agency. Its primary function is to investigate fraud, abuse, and violations of laws, rules, and policies in governmental entities. The OEIG investigates allegations of misconduct by the employees, appointees, and elected officials under its jurisdiction. The OEIG also has responsibility for investigating alleged violations by those doing business with entities under its jurisdiction.

The OEIG's jurisdiction includes:

- the Office of the Governor;
- the Office of the Lieutenant Governor;
- the regional transit boards (i.e., RTA, CTA, Metra, and Pace);
- the state public universities; and
- all state agencies and departments of the executive branch of state government, except for those agencies under the jurisdiction of other executive branch constitutional officers, specifically the Attorney General, the Comptroller, the Treasurer, and the Secretary of State (other Inspectors General have jurisdiction over the four executive branch constitutional officers not under the OEIG's jurisdiction, and the state legislature).

For additional information about the Office of Executive Inspector General for the Agencies of the Illinois Governor, visit its Web site at: <http://www.inspectorgeneral.illinois.gov>.

Ethics Training (Ethics Act, Section 5-10)

Under the Ethics Act, executive branch employees are among those who must, at least annually, complete ethics training under appropriate oversight. Additionally, by law, new employees must complete ethics training within 30 days of commencement of their employment. Because state employees are defined within the Ethics Act to include any appointee, appointees must also complete ethics training. **Elected** commissioners, trustees, directors, or board members of boards of a state agency, including any retirement system or investment board subject to the Illinois Pension Code, are also state employees for purposes of the Ethics Act and must complete ethics training.

This training course is specifically required of appointees to entities under the jurisdiction of the Office of Executive Inspector General for the Agencies of the Illinois Governor. It is the responsibility of each state agency, board, commission, etc. to conduct ethics training and to annually report to the OEIG and the Executive Ethics Commission those individuals who have or have not completed training.

Failure to complete training when directed to do so exposes employees and appointees to disciplinary or other action by their state agencies or boards and/or the appropriate ultimate jurisdictional authority (e.g., the Governor, Lt. Governor or in the case of the state public universities, their boards of trustees). This may include action up to and including termination of employment or withdrawal of appointment. Additionally, the failure to complete ethics training and to submit a signed certification of completion of the training, in accordance with the training's instructions and the requirements of the Ethics Act, may be found to constitute a violation of the Ethics Act. This could result in possible administrative action by the Executive Ethics Commission, including its levy of a fine of up to \$5,000.

Your state board will notify you and provide instructions to you concerning when and how to participate in ethics training. By carefully reading and reviewing the material in this package and, signing and submitting the attached acknowledgement form, you are completing this training for the current year.

Official Misconduct, Bribery, and Solicitation Misconduct (Criminal Code of 1961 (720 ILCS 5/33-3))

Public officers or employees commit misconduct when, in their official capacity, they:

- intentionally or recklessly fail to perform any mandatory duty as required by law;
- knowingly perform an act which they know they are forbidden by law to perform;
- perform an act in excess of their lawful authority with intent to obtain personal advantage for themselves or another; or
- solicit or knowingly accept for the performance of any act a fee or reward which they know is not authorized by law.

Public officers or employees convicted of violating any of these provisions forfeit their office or employment. In addition, they commit a Class 3 felony.

For Example:

A state employee may be committing official misconduct if she approves a citizen's request for state financial aid, which the employee knows she does not have the authority to approve. Also, as an example, a state employee may be committing official misconduct if she uses a state vehicle for unauthorized purposes, such as for her personal use.

Among other circumstances, **bribery** occurs when state employees ask for or accept property or personal advantage, such as, but not limited to, money or free services, in exchange for taking or not taking (or influencing someone else to take or not take) an official act.

For Example:

It is unlawful for state employees to accept a personal loan, in exchange for making official decisions, such as the issuance of a professional license, the granting of a state contract extension, or hiring of a state employee.

If state employees or officials accept a bribe, they could face criminal charges and if convicted, they could go to jail. It is also a criminal violation of the law if state employees or officials fail to report a bribe to the Illinois State Police.

If state employees have regulatory authority over a person, such as responsibility to investigate, inspect, license, or enforce regulatory measures related to the person's business or activity, and they knowingly ask for or receive political campaign contributions from that person, they have committed **solicitation misconduct**. If convicted of solicitation misconduct, state employees will lose their state jobs.

Personnel Policies (Ethics Act, Section 5-5)

State employees are required to follow the personnel policies of their state agency, board, or commission. By law, these policies must include elements related to:

- work time requirements;
- documentation of time worked/time sheets;
- documentation for reimbursement for travel on official state business;
- compensation; and
- earning and accrual of state benefits for those eligible for benefits.

As an appointee, you are expected to become familiar with and adhere to the personnel policies of your board or commission.

Time Sheets (Ethics Act, Section 5-5)

“During the OEIG surveillance on October 20, 2009, [the state employee] was observed on State time mowing her grass and driving to a tavern. On her time sheet for that day, [the state employee] not only reported working 6:30 a.m. to 4:00 p.m., she also included one (1) hour of overtime, paid at time and a half her hourly rate.” (OEIG Case # 09-00809)

These are words from an OEIG investigative report that was publicly released by the Executive Ethics Commission in January 2011. The OEIG recommended that its subject be discharged for abusing state time, falsifying time sheets, and misusing a state vehicle. The Illinois Department of Transportation informed the OEIG that the subject’s employment was terminated on October 8, 2010.

The law requires your board to have a policy requiring you to periodically submit time sheets documenting the time spent each day on official state business to the nearest quarter hour. **As a state board appointee, you are expected to accurately report the hours that you work for the state, on a timely basis, as directed by your state board.**

Conflicts of Interest

Many appointees to state boards and commissions serve the state on a part-time basis and are also employed elsewhere. As a result, appointees may be more likely than other state employees to have personal, financial, or business interests that have the potential to conflict with their official work on behalf of the state. It is vital to the proper operation of state government and the public’s confidence in the integrity and basic fairness of state government,

for appointees to avoid not only actual conflicts of interest, but also those situations that may be perceived by others as a conflict of interest.

A conflict of interest occurs when the interests of an appointee are in conflict with the interests of the state. This might occur, for example, when a decision or recommendation that an appointee makes, relative to his or her official position, either affects or is affected by his or her personal interests or those of a family member, friend, or associate.

For Example:

An appointee has a conflict of interest when she participates in a decision to award a contract for state business to a company owned by a friend. Another example of a conflict of interest occurs when an appointee attempts to influence a vote of fellow board members in order to benefit the appointee's own financial interests.

Official actions taken by an appointee to a state board, such as, but not limited to, voting on an issue before the board, or approving a license application, or granting a contract, or hiring an employee of a board, should be in the best interests of the state.

Do What's Right!

Recommended Best Practice

In any instance where you believe you may have a conflict of interest with respect to your membership on a state board or commission, it is your responsibility to immediately take steps to appropriately disclose the conflict and take action to remedy it. Disclosure should be made in accordance with any applicable policies of your board or commission. In the absence of a relevant policy, disclosure should be made to the head of the board or commission and to its ethics officer. Every immediate effort must be made either to eliminate the conflict or to recuse yourself from any official business related to the conflict.

Additionally, it is unethical for state employees and appointees to use information made available to them as result of their official duties and which is not generally known to the public, to benefit themselves, their friends, their family, or associates. The use of such insider information to benefit themselves or another person is, for example, unlawful under the Illinois Procurement Code (30 ILCS 500/50-50).

For Example:

It would be unlawful for a state board member to provide confidential information about a vendor selection process to a business associate whose company is vying for state business.

Conflicts of Interest Lesson Review Scenarios

Review Scenario #1

Jean is an appointed member of a state board that makes decisions concerning the issuance of large financial grants.

Fred, who also serves on the same board as does Jean, is interested in obtaining Jean's support for the issuance of a grant that must be approved by a majority of the board's members. The grant will benefit an entity, which employs Fred's wife. Fred knows that Jean's son recently graduated from college and is looking for employment. Fred is thinking about making Jean's son an offer of employment with a business he owns, if Jean agrees to support the grant that Fred wants issued. Is Fred's plan ethical?

- A. No, Fred's actions represent a conflict of interest and possibly much worse (i.e., bribery).
- B. Yes. Fred's plan is nothing more than a common and acceptable exchange of favors between board members.
- C. Yes, since the position that Fred contemplates offering to Jean's son is not a state job

Select the best answer(s) and then compare your response to the explanation at the bottom of this page.¹

Review Scenario #2

Sally is an employee of a state commission. Her husband owns a substantial amount of common stock in a large corporation that is regulated by the commission that Sally works for. Does her husband's investment cause Sally to have a conflict of interest?

- A. No, because Sally's husband is not a state employee, his actions cannot cause Sally to have a conflict of interest.
- B. Yes, the investment causes Sally to have a conflict of interest.
- C. Maybe, depending upon her official duties, Sally's actions may result in a benefit to her husband's investment.

Select the best answer(s) and then compare your response to the explanation below.²

¹ The best response to Review Scenario #1 is A. Fred's plan represents a conflict of his interests with those of the state, since he is attempting to influence his board's decision to provide indirect benefit to his wife through her employer. Furthermore, Fred's planned actions may represent official misconduct and/or bribery, both of which are potential criminal offenses. It is not acceptable for appointees to trade official actions to obtain personal benefit. The fact that the job that Fred may offer to Jean's son is not a state job, has no relevance to whether Fred's plan is ethical or legal.

² The best response to Review Scenario #2 is C. Sally's husband's investment may or may not cause her to have a conflict of interest depending on whether her official actions may affect her husband's investment. If, for example, Sally is involved in regulatory decisions that affect the value of her husband's investment, then Sally has a conflict. Sally should examine her commission's policies to ensure that she complies with them, discuss the situation with her commission's ethics officer, and, if necessary, take actions to address a conflict of interest if one exists.

“As a result of the activity described in this decision, respondent resigned her position, which paid \$110,000 at the time of her resignation. Therefore, the only sanction available to the Commission in this matter is the imposition of a fine.” (EEC decision #11-EEC-008)

This language is taken from the Executive Ethics Commission’s decision to levy a \$1,000 fine against a former deputy chief of staff for the Office of the Governor, who violated the Ethics Act’s prohibited political activity provisions.

State employees and appointees may not participate in any of the following activities while acting, or appearing to act, as state employees or appointees, or while conducting state business. If state employees or appointees take part in any of these activities during compensated time, then they must use vacation, personal, or compensatory time off. Additionally, state employees may never engage in any of these activities by misappropriating state property and resources (such as state-provided telephones, cell phones, photocopiers, or computers) for the benefit of any campaign for elective office or any political organization:

- Prepare for, organize, or participate in any political meeting, political rally, political demonstration, or other political event

For example, a state employee may not send an email to fellow workers during work hours and/or using a state email account, encouraging them to attend a rally for a candidate for public office. Nor may state employees use a state email account, at any time, to, for example, issue invitations to or advertise a political event to anyone.

- Solicit contributions, including, but not limited to, purchasing, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event
- Solicit, plan the solicitation of, or prepare any document or report regarding any thing of value intended as a campaign contribution
- Plan, conduct, or participate in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum question

- Survey or gather information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes, or for or against any referendum question

For example, it is unlawful for state employees, during their workday, to call potential voters on behalf of a candidate to find out whom they might vote for in an upcoming election.

- Assist at the polls on election day on behalf of any political organization, candidate for elective office, or for or against any referendum question
- Solicit votes on behalf of a candidate, political organization, or for or against any referendum question, or help in an effort to get voters to the polls
- Participate in a vote recount on behalf of a candidate or political organization
- Initiate, prepare, circulate, review, or file a petition on behalf of a candidate for elective office or for or against any referendum question
- Make a contribution on behalf of any candidate for elective office
- Prepare or review responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes
- Distribute, prepare for distribution, or mail campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question
- Campaign for an elective office or for or against any referendum question
- Manage or work on a campaign for elective office or for or against any referendum question

For example, it is unlawful for state employees to use state-provided telephones, even during an uncompensated lunch period or before or after their normal work hours, to work on someone's campaign for elective office.

- Serve as a delegate, alternate, or proxy to a political party convention

Lastly, a supervisor may not compel a state employee to perform political activities at any time.

Do What's Right!

Recommended Best Practice

State employees or appointees must not engage in political activities during the hours they work for the state or by misappropriating any state resource (such as phones, copiers, letterhead, fax machines, email accounts, etc.). In some instances, state

agencies or state boards and commissions may have policies that more severely restrict the political activities of their employees and appointees, including those activities that may take place outside of the time, which employees and appointees work for the state. If you are in doubt as to whether an activity or action may be prohibited by law or policy, you may ask your state board's ethics officer for guidance.

Prohibited Political Activities Lesson Review Scenarios

Review Scenario #3

Leon is a recently appointed unpaid member of the board of directors of a state agency. Until his appointment, Leon was actively involved in various political activities. Is he prevented from participating in political activities because of his appointment to the state board?

- A. Yes, while his appointment is in effect, Leon is strictly prohibited from engaging in any political activity.
- B. No, the Ethics Act's prohibitions on certain political activities apply only to compensated appointees. They do not apply to unpaid appointees like Leon.
- C. Yes, like other state employees, the Ethics Act's prohibitions against certain political activities apply to appointees during the hours, which they work for the state.

Select the best answer(s) and then compare your response to the explanation at the bottom of this page.³

Review Scenario #4

Gwen is a state board employee. She frequently uses her state-provided computer and email account to exchange business-related messages with her state coworkers. On occasion and as allowed by her board's policies, Gwen makes very limited use of her computer for personal business. Because the policy of Gwen's agency allows limited and infrequent use of her computer for personal business, is Gwen allowed to send a friend a very brief message about a rally promoting a candidate for mayor?

- A. Yes, because her board's policy allows occasional use of her computer for personal purposes, sending the message is okay.
- B. Yes, because the message is brief and is only being sent to one individual, it is okay.

³ The best response to Review Scenario #3 is C. The restrictions that pertain to certain political activities under the State Officials and Employees Ethics Act apply to all executive branch employees, including most appointees to state boards and commissions, regardless of whether the appointees receive compensation. They apply during the hours, which an appointee works for the state. Furthermore, appointees may not misappropriate state property or resources by engaging in a prohibited political activity.

- C. No, because the Ethics Act prohibits the intentional misappropriation of state property or resources for purposes of a prohibited political activity such as organizing a political rally.

Select the best answer(s) and then compare your response to the explanation at the bottom of this page.⁴

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

As an appointee to a state board or commission, you may not intentionally solicit, accept, offer, or make political campaign contributions on state property. These prohibitions also apply to public officials, state employees, candidates for elective office, lobbyists (i.e., persons required to be registered under the Lobbyist Registration Act), or any officers, employees, or agents of any political organization.

State property includes, for example, buildings or portions thereof that are owned or exclusively leased by the state.

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

A state employee, appointee, or official may not promise **anything of value** related to state government in consideration for a contribution to a political committee, political party, or other entity that has as one of its purposes the financial support of a candidate for elective office.

In the context of a prohibited offer or promise related to a political contribution, **anything of value** includes, but is not limited to:

- positions in state government;
- promotions;
- salary increases;
- other employment benefits, including, but not limited to, modified compensation or benefit terms; compensated time off; or change of title, job duties, or location of office or employment. An employment benefit may also include favorable treatment in determining whether to bring any disciplinary or similar action or favorable treatment during the course of any disciplinary or similar action or other performance review;
- board or commission appointments;
- favorable treatment in any official or regulatory matter;
- the award of any public contract; and
- action or inaction on any legislative or regulatory matter.

⁴ The best response to Review Scenario #4 is C. The Ethics Act prohibits this and various other political activities from being performed through the misappropriation of state property and resources, such as but not limited to telephones, fax machines, copiers, computers, and email accounts. There are no exceptions to these restrictions based on the insignificance of the misappropriation. Furthermore, state board policies may not contravene the Ethics Act.

For Example:

It is unlawful for a state employee or appointee to offer an action by a state board, or to offer someone a state job or to offer an appointment to a state board, or to offer the award of a contract, in exchange for a political campaign contribution.

Prohibited Public Service Announcements and Other Promotional Material (Ethics Act, Section 5-20)

What's New

The Ethics Act prohibits public service announcements or advertisements that are on behalf of any state administered program and contain the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly that are broadcast or aired on radio or television, printed in a commercial newspaper or commercial magazine, **or, effective June 16, 2011, displayed on a billboard or electronic message board at any time.**

Furthermore, the proper name or image of any executive branch constitutional officer or member of the General Assembly may not appear on any bumper stickers, commercial billboards, lapel pins or buttons, magnets, stickers and other similar promotional items that are not in furtherance of the person's official state duties or governmental and public functions, if designed, paid for, prepared, or distributed using public dollars.

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

Generally, as a state appointee, you must not ask for or accept anything of value (other than compensation or reimbursement you may receive from the state) in relation to your position with the state. Asking for or accepting a gift may be illegal under the Ethics Act, or prohibited by your state board's policies. Furthermore, anything of value, if offered to you **in exchange for an official act**, may be considered a bribe.

Prohibited gifts include a variety of things, some of which you might not ordinarily think of as gifts. Gifts are defined by the Ethics Act to include, among other things, tickets to sporting events, hospitality, specially discounted merchandise or services, entertainment, loans, reimbursement of travel expenses, gratuities, cash, food, drink, and honoraria for speaking engagements. In addition to the restrictions on the solicitation or acceptance of gifts from prohibited sources that are contained in the Ethics Act, your state board may have its own policies, which in some instances, may be more restrictive than those of the Ethics Act.

Under the Ethics Act, state employees or appointees may not intentionally solicit or accept prohibited gifts from certain individuals or entities that are defined by law as a "prohibited source," nor may they accept gifts in violation of any federal or state statute, rule, or regulation. It is also unlawful for employees' or appointees' spouses or immediate family members living with them to intentionally solicit or accept a prohibited gift from a prohibited source.

Prohibited sources include a person or entity that:

- seeks official action from the state employee or the employee's state agency or other employee directing the employee;
- does business or seeks to do business with the employee, state agency, or other employee directing the employee;
- conducts activities that are regulated by the employee, the state agency, or other employee directing the employee;
- has interests that may be substantially affected by the performance or non-performance of the official duties of the state employee;
- is a registered lobbyist under the Lobbyist Registration Act; or
- is an agent of, a spouse of, or an immediate family member who is living with a prohibited source.

Under the Ethics Act, there are a limited number of specific circumstances under which you may lawfully accept certain items of value from a prohibited source, such as the reimbursement of travel expenses for a meeting to discuss state business when the situation meets specific criteria **and** when such expenses have been approved in advance by your board's ethics officer.

The list of exceptions is limited to:

- opportunities, benefits, and services available to the general public on the same conditions;
- anything for which a state employee pays market value;
- a lawful contribution under the Election Code or the Ethics Act or activities associated with a fundraising event in support of a political organization or candidate;
- educational materials and missions (as further defined below *);
- travel expenses for a meeting to discuss state business (as further defined below **);
- a gift from a relative;
- anything provided on the basis of personal friendship, unless the employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the employee and not because of the personal friendship;
- food or drink that does not exceed \$75 per calendar day;
- food, drink, lodging, and transportation related to outside business or employment activities, if the benefits are customarily provided to others in similar circumstances and are not offered because of the recipient's official position;
- intra-governmental or inter-governmental gifts (e.g., gifts between agency employees or between government employees);
- bequests, inheritances, and other transfers at death; and
- any item or items from any one prohibited source during any calendar year that has a cumulative total value of less than \$100.

*Illinois Executive Ethics Commission Rule 1620.700 states that educational materials and missions are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; and are approved by the employee's ethics officer in advance of the mission or receipt of the materials. If advance

approval is not practicable, the missions and materials shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

**Illinois Executive Ethics Commission Rule 1620.700 further states that travel expenses of a meeting to discuss state business are those that have a close connection to the recipient's state employment; predominately benefit the public and not the employee; are for travel in a style and manner in character with the conduct of state business; and are approved by the employee's ethics officer in advance of the travel, if practicable. If advance approval is not practicable, the travel shall be reported to the ethics officer as soon as practicable and shall contain a detailed explanation of why approval could not be obtained in advance.

Under the Ethics Act, if state employees or appointees **unintentionally** receive a prohibited gift from a prohibited source, they may correct the situation and not be in violation of the law if they promptly:

- return the gift to the giver;
- give the gift to a not-for-profit organization, a 501(c)(3) organization; or
- give an amount of equal value to a not-for-profit organization, 501(c)(3) organization.

Any gift that is intended to improperly influence your official conduct as a state appointee **must not be accepted**. Such a gift may constitute a bribe under state or federal law. Questions you may have related to gifts solicited or received in your capacity as a state appointee or while conducting state business may be referred to your state board's ethics officer.

Do What's Right!

Recommended Best Practice

In general, it is recommended that you decline anything of value offered to you (other than compensation or reimbursement you may receive from your state board) in relation to your official duties, unless it meets one of the exceptions to the Ethics Act's gift ban and is allowable under your state board's policies.

It is advisable that prior to accepting anything of value in connection with your official duties, that you discuss the matter with your board's ethics officer.

Gift Ban Lesson Review Scenarios

Review Scenario #5

Jason, who is a member of a state board, is checking in to a Chicago area hotel while traveling on vacation. The hotel's desk clerk tells Jason that if he is a state employee he is eligible for a 20% discount off its normal room rate. Is it lawful for Jason to accept this special discount, which is not available to others?

- A. Maybe. If for example, the hotel is not a prohibited source, then Jason may lawfully accept the discount. If the hotel is a prohibited source, the discount, depending on its value, may be prohibited.
- B. Yes, Jason can accept any gifts or discounts offered to him while he is on vacation.
- C. No, state appointees may never accept a gift in relation to their positions with the state.

Select the best answer(s) and then compare your response to the explanation at the bottom of this page.⁵

Review Scenario #6

ABC Technology is a vendor to a state board. It has a maintenance contract with the board to service its copier machines. It recently offered the board a reconditioned copier, free of charge, because the board does so much business with ABC. Does the Ethics Act's gift ban prohibit the board from accepting the free copier?

- A. No, the Ethics Act's gift ban applies to state employees and appointees but it does not apply to state agencies and boards.
- B. Maybe, if the value of the reconditioned copier exceeds \$100.
- C. Yes, because ABC Technologies does business with the board, the board may not intentionally accept any gifts from ABC.

Select the best answer(s) and then compare your response to the explanation at the bottom of this page.⁶

Revolving Door (Non-State Employment) Restrictions (Ethics Act, Section 5-45)

The Ethics Act contains restrictions that may, under certain circumstances, affect whether you, as a state appointee, (or one of your family members) may lawfully accept employment, compensation, or fees from another person or entity after you end your state service.

⁵ The best response to Review Scenario #5 is A. If the hotel is a prohibited source, that is, if, for example, it does or seeks to do state business with Jason or his board, or is regulated by Jason or his board, then Jason may be prohibited, under the Ethics Act from accepting the discount depending on its value. To play it safe, Jason should refuse the discount because it is offered on the basis of his being a state appointee.

⁶ The best answer to Review Scenario #6 is A. The Ethics Act's gift ban applies to individuals but not to state agencies and boards. However, certain agencies and boards may have their own policies related to the acceptance of gifts, which may be more restrictive than the Ethics Act.

No former officer, member, or state employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of state employment, knowingly accept employment or receive compensation or fees for services from a person or entity if:

- the officer, member, or state employee, during the year immediately preceding termination of state employment, participated personally and substantially in the award of state contracts, or the issuance of state contract change orders, with a cumulative value of \$25,000 or more to the person or entity, or its parent or subsidiary; or
- the officer or state employee, during the year immediately preceding termination of state employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

[Employment Restrictions and Procedures that Apply to Employees or Appointees, Who Participate in Contract, Licensing, or Regulatory Decisions:](#)

Depending on your state appointment and its responsibilities, you may be required to notify the OEIG if you are offered non-state employment from certain persons or entities and to seek a determination from the OEIG regarding whether you may lawfully accept such an offer -- before your acceptance of the offer. Persons subject to these restrictions are often called “c-list” employees in reference to subsection (c) of Section 5-45 of the Ethics Act. Subsection (c) contains employment restrictions on those state employees and appointees whose positions have the authority to participate personally and substantially in state contracting, regulatory, or licensing decisions. The Ethics Act requires each executive branch constitutional officer to adopt a policy, which identifies these “c-list” positions.

If you are in a position that is subject to these employment restrictions (i.e., if your position is on the “c-list,”) you should be provided written notification that the restrictions apply to your position. Notification should be provided to you upon your hire, promotion, or transfer into a relevant position; and at the time your duties are changed in such a way as to qualify your position for the restrictions.

These “c-list” employment restrictions apply during a period of one year immediately after termination of state employees’ or appointees’ state employment or appointment. During that time period, state employees, appointees, and their spouses and immediate family members may not knowingly accept employment or receive compensation or fees for services from a person or entity if the state employees or appointees, during the year immediately preceding termination of state employment:

- participated personally and substantially in the award of a contract or contracts, or the issuance of change orders with a cumulative value of \$25,000 or more to the person or entity; or

- participated personally and substantially in a regulatory or licensing decision that directly applied to the person or entity.

Any employee or appointee in a position which has been identified as having this regulatory, licensing, or contracting authority and who is offered non-state employment during state employment/appointment or within a period of one year immediately after termination of state employment/appointment must, prior to accepting such non-state employment, notify the appropriate Executive Inspector General. Within 10 calendar days after receiving such notification, the Executive Inspector General must make a determination as to whether the state employee or appointee is restricted from accepting such employment. An Executive Inspector General’s determination may be appealed to the Executive Ethics Commission no later than 10 days after the date of determination.

[Additional Employment Restrictions and Procedures that are Independent of an Employee’s Duties:](#)

A limited number of state officers, employees, or appointees, in certain positions, are strictly prohibited from knowingly accepting employment or receiving compensation or fees for services from certain individuals or entities during a period of one year after the termination of their state positions. These restrictions apply **regardless of whether the state officers, employees, or appointees were involved in regulatory, licensing, or contract decisions.** Persons affected by these restrictions are commonly referred to as being on the “h-list,” in reference to subsection (h) of Section 5-45 of the Ethics Act, which contains these employment restrictions

These “h-list” restrictions apply to employment or compensation offers from a person or entity or its parent or subsidiary, that during the year immediately preceding termination of the officer, employee or appointee’s state position, was a party to a state contract or contracts with a cumulative value of \$25,000 or more involving the officer, member of the general assembly, or state employee’s state agency, or was the subject of a regulatory or licensing decision involving the officer, member of the general assembly, or state employee’s state agency. **These more absolute restrictions apply to:**

- **members of the general assembly or constitutional officers (such as the Governor);**
- **members of a commission or board created by the Illinois Constitution;**
- **persons whose appointments to office are subject to the advice and consent of the Senate;**
- **the head of a department, commission, board, division, bureau, authority, or other administrative unit within the government of the state;**
- **chief procurement officers, state purchasing officers, and their designees whose duties are directly related to state procurement; and**
- **chiefs of staff, deputy chiefs of staff, associate chiefs of staff, assistant chiefs of staff, and deputy governors.**

To reiterate, the employment restrictions on these “h-list” positions apply **regardless** of whether the officer, employee, or appointee participated personally and substantially in the award of the state contract or contracts or the making of the regulatory or licensing decision in

question. Furthermore, **there is no process for seeking an exception to the employment restrictions on these positions.**

If you find yourself in a situation where you are offered employment or compensation by an individual or business that conducted official state business with you or your state board, you may discuss the matter with your state board's ethics officer or private legal counsel to ensure that you comply with the law.

The Executive Ethics Commission has the authority to issue a fine to a state employee or appointee in an amount of up to three times the total annual compensation that would have been obtained in violation of the Ethics Act's revolving door employment restrictions.

Revolving Door Lesson Review Scenario

Review Scenario #7

Jorge is a state board appointee. When appointed, he received written notification, in accordance with the Ethics Act, that his appointed position may have the authority to participate personally and substantially in the award of state contracts. Therefore, Jorge is subject to the revolving door employment restrictions of subsection (c) of Section 5-45 of the Ethics Act. Jorge was recently offered a job by a contractor that does business with Jorge's state board. What actions, if any, must Jorge take prior to accepting the employment offer?

- A. None, since revolving door employment restrictions only apply to employees and not to appointees.
- B. Jorge should inform the contractor that it could be fined for making an employment offer to him.
- C. Jorge must notify the Office of Executive Inspector General to obtain its favorable determination prior to accepting the employment offer.

Select the best answer(s) and then compare your response to the explanation at the bottom of this page.⁷

[Additional Appointee Restrictions \(Ethics Act, Section 5-55 and Lobbyist Registration Act, 25 ILCS 170/3.1\)](#)

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

⁷ The best response to Review Scenario #7 is C. By law, Jorge is required to notify the Office of Executive Inspector General **prior to** his acceptance of an offer of employment from the contractor. This requirement applies to state employees and appointees who are covered by the "c-list" restrictions. Penalties for violating the revolving door restrictions apply to state employees and appointees, not to an entity that makes an employment offer.

[Registered Lobbyists \(Lobbyist Registration Act, 25 ILCS 170/3.1\):](#)

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

A person required to register as a lobbyist may not serve on a state board authorized or created by state law or by executive order of the Governor if the lobbyist is engaged by nature of a client's business in the same subject area of the board. Exceptions to this prohibition are limited to instances where the lobbyist serves:

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

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

Spouses and immediate family members who are living with a person required to register as a lobbyist also may not be appointed to a state board unless they fall under one of the exceptions above.

[Holders of State Contracts \(Ethics Act, Section 5-55\):](#)

A person, his or her spouse, or any immediate family member living with that person, may not serve on a state board if:

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

This ban does not apply if:

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

Any person who serves on a state board under one of these exceptions must not take part in any decision that may affect the contract in question.

Any individual appointed to a state board must disclose all contracts the individual has with the state.

[State Contract-Related Conflicts of Interest \(Governmental Ethics Act \(5 ILCS 420/3A-35\)\):](#)

An appointed member of a state board authorized or created by state law or executive order of the Governor, may not have or acquire a contract or a direct financial interest in a contract with the state that is related to the board on which they sit. This restriction applies during the appointee's term of office and for one year after the conclusion of the appointee's term. This restriction also applies to the appointee's spouse or an immediate family member of the appointee living in the appointee's residence.

[Whistle Blower Protection \(Ethics Act, Article 15\)](#)

State employees, including appointees, may be reluctant to report violations of the law, rules, or regulations out of fear that those affected by their report will do something to harm them or their careers. Such **retaliation is generally against the law.**

An officer, state employee (or appointee), or state agency may not lawfully take any retaliatory action against a state employee for:

- disclosing or threatening to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member of the General Assembly, state agency, or other state employee that the state employee reasonably believes is in violation of a law, rule, or regulation;
- providing information or testifying about any violation of a law, rule, or regulation by any executive or legislative branch constitutional officer, member of the General Assembly, state employee, or state agency; or
- assisting or participating in a proceeding to enforce the State Officials and Employees Ethics Act.

Retaliatory action includes, for example, reprimanding, firing, demoting, transferring or suspending the state employee, changing the terms or conditions of the state employee's employment, or denying the state employee a promotion.

Whistle blower protections do not however prohibit a state employee from being disciplined for matters unrelated to the above-listed protected activities. For example, a state employee who discloses an unlawful act of another state employee may still be disciplined for failing to complete a required work assignment. Such discipline is allowable if it is demonstrated by clear and convincing evidence that the discipline (in this example, for failing to complete a work assignment) would have been imposed in the absence of the employee's disclosure of the unlawful act.

If a state employee retaliates against another state employee for reporting a violation of law or assisting in an investigation, then the individual taking the retaliatory action would be subject to disciplinary action up to and including discharge by his or her state agency, as well as potential administrative action by the Executive Ethics Commission for violating the Ethics Act.

In addition, the employee subjected to the retaliatory action could file a lawsuit seeking compensation and other remedies as provided by law. A list of potential remedies, including, but not limited to reinstatement of employment and back pay, may be found in the State Officials and Employees Ethics Act (5 ILCS 430/15-25). The state circuit courts have jurisdiction to hear cases brought under this section of the Ethics Act.

Reporting Violations of Law, Rule, Regulation, or Policy (Administrative Order #6, 2003) **OEIG Hotline: 866-814-1113**

To put an end to misconduct, it is important if you witness misconduct or have evidence of it, you report it to the proper authorities. As a state employee, it is your ethical duty to report violations of laws, rules, or regulations by another state officer, employee, or other relating to state business.

To report a **non-emergency violation** of law, rule, or regulation, you should contact the Office of Executive Inspector General for the Agencies of the Illinois Governor (OEIG) via its **toll-free Hotline at 866-814-1113**. Questions and/or reports of alleged violations may also be submitted via the Internet at: <http://www.inspectorgeneral.illinois.gov>. For those who require it, the OEIG may also be contacted toll-free via a telecommunications device for the disabled (TTD) at 888-261-2734.

Alleged violations may be reported to the OEIG anonymously. However, in many instances, investigations may be conducted more efficiently if investigators are provided the identity of the person who reported the matter so, if necessary, investigators may ask follow-up questions to obtain additional information.

In the event of an emergency situation requiring an immediate police response, you should contact the Illinois State Police or the county, municipal, or other police agency that can provide the fastest response (for example, by dialing "911"). Examples of emergency situations include those that involve the illegal use or possession of a weapon, bodily injury or threat of bodily injury, or criminal sexual assault.

If anyone attempts to improperly influence your official actions as a state employee, particularly if there is an attempt by anyone to have you or another employee act or fail to act in a manner that is unlawful or violates state agency or board policies, it is your responsibility to immediately report this matter to the appropriate authorities.

In certain instances, a state employee's failure to report a violation is in itself a violation of the law, as may be the case where an employee fails to report a bribe (720 ILCS 5/33-2).

Rights and Responsibilities During Investigations (Ethics Act, Section 20-70, EEC rules, 2 Ill. Admin. Code Section 1620.300(c)(8), and Administrative Order #6, 2003)

State board employees and appointees who become involved in an investigation conducted by the Office of Executive Inspector General or the Illinois Attorney General have both rights and responsibilities with respect to these important functions. As a state board appointee, you

have an obligation to cooperate in such investigations. This means, among other things, you must participate in interviews as requested, tell the truth, not withhold information, and respect the confidentiality of any investigation. It is also important that you know of your various rights with respect to investigations.

By law, every state employee must cooperate with and provide assistance to the Executive Inspector General and her or his staff in the performance of any investigation. In particular, state agencies and boards must, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, make their premises, equipment, personnel, books, records, and papers readily available to the Executive Inspector General.

In the course of an investigation, investigators may question any state officer, appointee, or employee, and any other person transacting business with a state agency or board. Investigators may also, to the extent permitted by applicable laws and the rules governing the conduct of Executive Inspectors General, inspect and copy any books, records, or papers in the possession of a state agency or board, including those made confidential by law. Investigators must take care to preserve the confidentiality of information contained in responses to questions or books, records, or papers that is made confidential by law.

Requests for production or viewing of documents or physical objects under state board control must be made in writing by an Executive Inspector General. If the recipient of such a request believes that the release of the subject matter of the request might violate existing rights under state or federal law, the recipient has the right to seek a determination from the Executive Ethics Commission relative to such rights or protections.

The Executive Inspector General may compel any state board employee to truthfully answer questions concerning any matter related to the performance of his or her official duties. If so compelled, no statement or other evidence therefrom may be used against an employee in any subsequent criminal prosecution, other than for perjury or contempt arising from such testimony. The refusal of any employee to answer questions if compelled to do so shall be cause for discipline, up to and including discharge. Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements.

When instructed by an OEIG investigator, a state board employee who participates in an investigative interview should not inappropriately disclose any matter discussed during the interview, or even the existence of the investigation, except for example, when necessary to consult with private legal counsel.

As a state board employee, you have various additional rights during investigations, including those resulting from EEC rules (2 Ill. Admin. Code Section 1620.300), which specify:

- If investigators reasonably believe an employee who is the subject of the investigative interview will likely face discipline, the investigators must notify the employee whether the underlying investigation is criminal or administrative in nature.
- If the underlying investigation is **criminal** in nature, the subject interviewee must be presented a form that outlines the interviewee's rights during the interview, including

the right to the presence of an attorney, union representative, or coworker uninvolved in the investigation.

- If the underlying investigation is **administrative** in nature, the subject interviewee must be presented a form that outlines the interviewee's rights during the interview, including **the right to the presence of a union representative, or coworker** uninvolved in the investigation.

In both criminal and administrative investigations, the subject interviewee must sign the above-mentioned form, attesting only to the fact that the form was presented to the interviewee and he or she was given the opportunity to read it.

Investigators may not infringe upon a state board employee's right to seek advice from their ethics officer on the interpretation and implementation of the Ethics Act, or to seek advice from private legal counsel.

The full text of the rules governing OEIG investigations may be found at the EEC's Web site: <http://www2.illinois.gov/eec>.

Ex Parte Communications

There are laws, which govern how information received by state agencies and their employees in relation to rulemaking and regulatory, quasi-adjudicatory, investment, procurement, and licensing procedures must be treated, especially when communications are received by state employees outside of a public forum. These laws are intended to make these procedures fair and to ensure that related communications received by the state and its employees are appropriately disclosed to others who are interested in the subject of the communications.

Most state employees are not affected by laws governing ex parte communications; however, if you are an employee of or appointee to one of the several entities listed below or are involved in procurement activities or formal rulemaking, it is especially important that you understand these requirements. If you have questions about ex parte communications, please seek appropriate counsel, such as, by talking to your board's ethics officer.

There are similar, but different requirements related to ex parte communications that apply to (1) rulemaking under the Administrative Procedures Act and (2) regulatory, quasi-adjudicatory, investment, and licensing matters under the Ethics Act. In addition, the Executive Ethics Commission has established specific reporting requirements related to ex parte communications. Also, there are reporting requirements related to ex parte communications that apply to procurement matters under the Procurement Code. These various requirements are discussed below.

[Ex Parte Communications in Rulemaking \(Administrative Procedures Act, 5 ILCS 100, Section 5-165\):](#)

Under the Illinois Administrative Procedures Act, an ex parte communication is defined as any written or oral communication by any person, during the rulemaking period, that provides or

requests information of a material nature or makes a material argument regarding potential action concerning an agency's (or board's) general, emergency, or peremptory rulemaking that is communicated to the head of the agency or an employee of the agency, and is:

- not made in a public forum;
- not a statement limited to matters of procedure and practice; and
- not a statement made by a state employee to fellow employees of the same board or agency.

An ex parte communication (i.e., one that is not made in a public forum, not limited to matters of procedure and practice, or not made by one employee to another of the same state agency or board) that is received by any agency or board, its head, or its employee must be immediately reported to the agency or board's ethics officer. The ethics officer must require that the communication be made a part of the record for the rulemaking proceeding and must promptly file the communication with the Executive Ethics Commission. **These requirements under the Illinois Administrative Procedures Act apply to all state agencies and boards.**

The intent of this section of the Administrative Procedures Act is to ensure that all parties who are interested in **administrative rules** under consideration by a state agency or board are made aware of communication that may occur outside of a public forum between the agency or board and other interested parties.

[Ex Parte Communications in Regulatory, Quasi-Adjudicatory, Investment, and Licensing Matters \(Ethics Act, Section 5-50\):](#)

Requirements that are different from (albeit seemingly similar to) those explained above, apply to ex parte communications involving only the following state agencies:

Executive Ethics Commission
Illinois Commerce Commission
Educational Labor Relations Board
State Board of Elections
Illinois Gaming Board
Health Facilities and Services Review Board
Illinois Workers' Compensation Commission
Illinois Labor Relations Board
Illinois Liquor Control Commission
Pollution Control Board
Property Tax Appeal Board
Illinois Racing Board
Illinois Purchased Care Review Board
State Police Merit Board
Motor Vehicle Review Board
Prisoner Review Board
Civil Service Commission
Personnel Review Board for the Treasurer
Merit Commission for the Secretary of State
Merit Commission for the Office of the Comptroller
Court of Claims

Board of Review of the Dept. of Employment Security
Department of Insurance
Department of Professional Regulation and its licensing boards*
Department of Public Health and its licensing boards
Office of Banks and Real Estate and its licensing boards**
State Employees' Retirement System Board of Trustees
Judges' Retirement System Board of Trustees
General Assembly Retirement System Board of Trustees
Illinois Board of Investment
State Universities Retirement System Board of Trustees
Teachers' Retirement System Board of Trustees

* The Department of Professional Regulation is a division of the Department of Financial and Professional Regulation

** The Office of Banks and Real Estate is a division of the Department of Financial and Professional Regulation

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

- not made in a public forum;
- not a statement limited to matters of procedure and practice; and
- not a statement made by a state employee to fellow employees of the same board or agency.

An ex parte communication received by an agency or board, its head or an agency or board employee/appointee from an interested party or its representative, must be promptly made a part of the related official record. "Interested party," means a person or entity whose rights, privileges, or interests are a subject of the matter under consideration by the agency or board.

An ex parte communication received by an agency or board, its head, or an agency or board employee/appointee from **other than** an interested party or its representative must be reported to the agency's or board's ethics officer. The ethics officer must promptly require the communication to become a part of the record and will promptly file the communication with the Executive Ethics Commission.

The intent of this section of the Ethics Act is to ensure that all parties who are interested in certain matters under consideration by the above-listed state agencies are made aware of related communications that may occur outside of a public forum between those state agencies and other interested parties.

[Applicable EEC Rules \(EEC Rules, 2 Ill. Admin. Code Section 1620.820\):](#)

The rules of the Executive Ethics Commission require that 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 Ethics Act 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 Procedures Act shall report this communication within 7 days to his or her agency's ethics officer. The full text of the EEC's rule may be found at its Web site: <http://www2.illinois.gov/eec>.

[Procurement Communications Reporting \(30 ILCS 500/50-39 and EEC rules 2 Ill. Admin. Code Section 1620.825\):](#)

Among its goals, the Illinois Procurement Code is intended to ensure that state purchases are made fairly and in the best interests of the state. The Procurement Code requires that employees be informed, via annual ethics training, of requirements to report certain communications received by state employees related to state procurement (purchasing) matters.

Under the Procurement Code, any written or oral communication received by a state employee that imparts or requests **material information** or makes a **material argument** about a **procurement matter**, must be reported to the state's Procurement Policy Board via its Web site: <http://pcrs.illinois.gov>. Communications must be reported as soon as practicable, but not more than 30 days after receipt.

A communication must be reported if it is (all of the following):

- 1) material;
- 2) regarding a potential action;
- 3) relating to a procurement matter; **and**
- 4) not otherwise excluded from reporting.

1) Materiality

Material information is information that is potentially relevant to determining a course of action, such as information pertaining to price, quantity, and terms of payment or performance.

A **material argument** is a communication that is made to influence a decision relating to a procurement matter. It does not include communications that are limited to general information about products, services, or industry best practices, or a response to a state employee's request for information to evaluate new products, trends, services, or technologies.

In determining whether a communication is material, state employees must consider:

- whether the information conveyed is new or already known; and
- the likelihood that the information would influence a pending procurement matter.

2) Regarding a potential action

A **potential action** is one that could affect the initiation, development, or outcome of a procurement matter.

3) Relating to a procurement matter

Procurement matters, unless otherwise excluded, are processes of procuring:

- goods, supplies, services, professional or artistic services, construction, leases of real property, capital improvements; or
- master contracts, contracts for financing through use of installment or lease-purchase agreements, renegotiated contracts, amendments to contracts, and change orders.

Procurement matters occur during the time period beginning when an agency has identified a need for procurement by initiating a procurement business case or equivalent document and continuing through completion of a final procurement action, including the resolution of any protests and the expiration of any protest or Procurement Policy Board review period.

Examples of procurement matters include activities such as:

- drafting, reviewing, or preparing specifications, plans, or requirements, including determining the method of source selection;
- drafting, reviewing, or preparing any invitations for bid, requests for proposals, requests for information, sole source procurement justifications, emergency procurement justifications, or selection information;
- evaluating bids, responses, or offers, other communications among an evaluation team and any technical advisors to the team relating to the evaluation of a procurement not yet awarded;
- letting or awarding a contract;
- resolving protests;
- determining inclusion on prequalification lists or prequalification in general;
- identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;
- allowing a conflict or subcontract pursuant to Section 50-60 of the Illinois Procurement Code; and
- approving change orders or the renewal or extension of an existing contract.

4) Exclusions to the reporting requirements

Exclusions to the reporting requirements include, for example:

- communications by a person publicly made in a public forum;
- communications regarding matters of procedure and practice, such as the format, the number of copies required, the manner of filing, and the status of a matter;
- communications made by a state employee to other employees of the same agency or to employees of the Executive Ethics Commission;

- communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract, which must be reported; and
- unsolicited communications providing general information about products, services or industry best practices, prior to those products or services becoming involved in a procurement matter.

Communications reports must include:

- the date, time and duration of each communication;
- the identity of each person from whom each communication was received, the individual or entity represented by that person, and any action requested or recommended by that person;
- the identity and job title of the person to whom each communication was made;
- the identity and job title of the person providing a response to each communication, if a response is made;
- a detailed summary of the points made by each person involved in the communication;
- the location(s) of all persons involved in the communication (including their phone numbers, if via telephone); and
- any other pertinent information.

For a more complete explanation of procurement communications reporting requirements, please visit the Procurement Policy Board's Web site (<http://ppb.illinois.gov>). Rules related to procurement communications reporting may also be found at the EEC's Web site: <http://www2.illinois.gov/eec>

If you have any questions concerning whether or not a communication is subject to these ex parte rules, you may seek the advice of your state board's ethics officer.

Ex Parte Communications Lesson Review Scenario

Review Scenario #8

Denise is an employee of a state board and is in the process of leasing new office space through a competitive bidding process. Recently a building owner, who is contemplating submitting a bid, called Denise to ask her to identify which elements of the bid specifications for her board's office space are the most critical to the state's decision in selecting new space. Does Denise need to report this inquiry to anyone?

- A. No, since it was an oral request and not a written one.
- B. Yes, Denise needs to report it to her agency's ethics officer.
- C. Yes, Denise needs to report it to the Procurement Policy Board.

Select the best answer(s) and then compare your response to the explanation below.⁸

Disclosure of Economic (Financial) Interests (Illinois Governmental Ethics Act, 5 ILCS 420 et seq.)

Members of a state board or commission created by the Illinois Constitution, and candidates for nomination or election to such a board or commission are among those required by law to annually (by May 1 of each year) file a statement of economic interests with the Secretary of State.

Generally, the requirement to file statements of economic interests also applies to compensated employees who:

- are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within state government, or who exercise similar authority with state government;
- have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the state in the amount of \$5,000 or more;
- have authority for the issuance or promulgation of rules and regulations within areas under the authority of the state;
- have authority for the approval of professional licenses;
- have responsibility for the financial inspection of regulated nongovernmental entities;
- adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration, or decision of any judicial or administrative proceeding within the authority of the state;
- have supervisory responsibility for 20 or more state employees;
- negotiate, assign, authorize, or grant naming rights or sponsorship rights regarding any property or asset of the state, whether real, personal, tangible or intangible; or
- have responsibility with respect to the procurement of goods and services.

It is the responsibility of the chief administrative officer of each state agency to annually certify to the Secretary of State the names and addresses of those individuals who are required to file a statement. If you are subject to the requirement to file a statement of economic interests, on or before April 1 annually, the Secretary of State will notify you of the need to file a statement. This notification typically includes a form for filing the statement. Alternatively, the form may be obtained via the Secretary of State's Web site at:

http://www.cyberdriveillinois.com/publications/pdf_publications/i188.pdf.

The information required for disclosure via a statement of economic interests includes, for example, but is not limited to:

⁸ The best response to Review Scenario #8 is C. Under the Procurement Code, any written or oral communication received by a state employee that imparts or requests material information or makes a material argument about a procurement matter, must be reported to the state's Procurement Policy Board via its Web site: <http://pcrs.illinois.gov>.

- the name and means of ownership that a member of a state board or commission may have in any entity doing business in the state of Illinois, in which the ownership interest is in excess of \$5,000 (including, for example, real estate or stock, but not including a time deposit in a bank nor any debt instrument);
- the name and address of any professional organization in which the board or commission member is an officer, director, associate, partner, or proprietor from which the member derived income in excess of \$1,200 during the preceding calendar year;
- the identity (such as, the address or legal description) of any capital asset such as real estate from which a capital gain of \$5,000 or more was realized during the preceding year;
- the identity of any compensated lobbyist with whom the member maintains a close economic association; and
- the name of any entity doing business in the state of Illinois from which income in excess of \$1,200 was derived by the member during the preceding calendar year.

If you have a question about a statement of economic interests, you may seek the advice of your state board's ethics officer.

Truthful Oral and Written Statements

It is vital to the integrity of state government that all oral and written statements made by you, in your official capacity as a state appointee, be made in what you believe to be an honest and truthful manner. This requirement applies to all means of communications and applies to documents, including, but not limited to:

- time sheets;
- employment or appointment applications;
- statements of economic interests;
- state board or commission rulings, orders, decisions, findings, etc.; and
- letters, emails, and reports.

Falsification of official documents or untruthful statements made in the conduct of state business are unethical, may violate state policies or law and may subject a state employee or appointee to administrative action up to and including fine and/or termination of state service, and in some instances may result in criminal prosecution.

“Based on the evidence, the OEIG recommends that [the state employee] be discharged with no right to reinstatement with any State agency for his: (1) time abuse; (2) impermissible personal use of his IDNR email account; (3) misuse of his IDNR vehicle; (4) impermissible personal use of his IDNR cellular phone; (5) failure to properly disclose his outside business interests; and (6) sleeping during work hours.” (OEIG Case #09-00508)

This language is taken from an OEIG final report, which was publicly released by the Executive Ethics Commission. The OEIG found that the state employee violated multiple state agency policies.

It is important that state employees, including appointees, adhere to those applicable laws, rules, policies, or regulations that are unique to their state agencies, including, in the case of appointees, those that are specific to their boards or commissions. These policies may include for example:

- a quorum requirement, which dictates that a minimum number of appointees be present in order for the board or commission to conduct official business;
- rules specifying limitations or requirements related to how an appointee might designate someone to act in his or her absence at a state board meeting;
- rules explaining how board or commission decisions will be made or how its meetings will be conducted;
- requirements that minutes be kept and/or published for each board or commission meeting;
- specifications regarding how a board or commission may operate in “executive session;”
- term limitations which dictate how long an appointee may serve on a state board or commission;
- restrictions or reporting requirements related to conflicts of interest; and
- requirements for board employees to avoid being tardy, strictly limit lunch and break periods, and not misuse or abuse state resources by, for example, using state telephones, computers, vehicles, office supplies, or time for personal business.

It is important that the business of state agencies is always conducted in accordance with all applicable laws, rules, policies, and regulations. Please be aware that many laws and rules, including the Ethics Act, are applicable to appointees even in instances where an appointee is

not compensated or serves on a board or commission that is only advisory in nature or serves on a board that meets only intermittently or is convened for a limited period of time. These laws and rules may, for example, prevent those who are not formally appointed (or otherwise properly designated in accordance with applicable rules, law, or policy) from participating in state board decisions. Under certain circumstances, individuals who participate in official state business without proper authority may be subject to criminal prosecution (e.g., for “official misconduct”).

There may also be policies that are specifically applicable to a particular state agency, board, or commission that may be more restrictive than the more general laws and rules that apply to all state employees. These policies may include, for example:

- restrictions concerning the solicitation or acceptance of gifts, which may be more stringent than the general gift ban contained within the State Officials and Employees Ethics Act;
- prohibitions on certain political activities, which may be more restrictive than those prohibitions contained within the State Officials and Employees Ethics Act;
- rules governing purchasing procedures;
- special time reporting or other personnel-related rules;
- hiring practices; and
- a code of conduct.

It is important that you familiarize yourself with all the laws, rules, and policies which apply to you, and that you abide by them. If necessary, you may ask the chairperson of the board or commission, which you serve, its legal counsel, its chief administrative officer (e.g., its staff’s executive director, if one exists), its ethics officer, or private legal counsel for guidance concerning those laws and rules that apply to your service to the state.

Penalties

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

Disciplinary action under the State Officials and Employees Ethics Act against a person subject to the Ethics Act and the Personnel Code is under the jurisdiction of the Executive Ethics Commission. Any hearing to contest disciplinary action against a person subject to the Act pursuant to agreement between the Executive Inspector General and an ultimate jurisdictional authority will be conducted by the Executive Ethics Commission.

Ethics Questions or Concerns

State board employees and appointees who have questions or concerns about a work-related ethics issue may contact their board's ethics officer. Under the Ethics Act, ethics officers, among their other duties, provide guidance to state employees, including appointees, in the interpretation and implementation of the Ethics Act, which guidance employees may in good faith rely upon.

Examples of the Ethical Obligations of State Employees and Appointees

The following are examples of actions or situations concerning the various ethical obligations of state employees, appointees, and officials:

1. **Situation:** An appointed member of a state board is asked to vote on the approval of a state contract with a business, which employs the board member's son.

Ethical Assessment: It is a conflict of interest for a board member to participate in a board decision that might benefit his son. The board member should disclose the conflict to his board and recuse himself from (not participate) any decisions or deliberations related to his son's employer.

2. **Situation:** A state board member agrees to vote in favor of a licensing decision in exchange for the license applicant's promise to sell the board member season tickets to the Chicago Bears' games.

Ethical Assessment: It is unethical and a violation of the law for a state appointee to exchange something of value for an official action. Although one might argue that by paying for the tickets the appointee avoids exchanging an official act for something of value, it is possible, depending on the circumstances, such as what is paid for the tickets, that the appointee may still be accused of engaging in misconduct.

3. **Situation:** An appointed board member tells the board's human resources director that he wants changes made to the job description for a position, which the board is trying to fill. The board member does so to ensure that the son of a friend, who has applied for the position, will meet the qualifications for the job.

Ethical Assessment: It is unethical and a conflict of interest for a state employee or appointee to attempt to influence another state employee's official actions in order to benefit a family member, friend, or associate.

4. **Situation:** To compensate for a considerable amount of time spent on board activities, an unpaid member of a state board submits a falsified request for expense reimbursement to her board's finance staff.

Ethical Assessment: It is unethical to falsify any official document, such as a request for expense reimbursement. Such an action most likely violates state board policy and may be a criminal violation depending upon the specific circumstances.

5. **Situation:** A state board appointee decides that he is not required to complete a time sheet recording the time he spends on state business because he is not compensated by the state.

Ethical Assessment: The law mandates policies that apply to state boards, which require board employees and appointees to periodically submit time sheets documenting the time spent each day on official state business to the nearest quarter hour.

6. **Situation:** An appointee to a state commission uses his state email account, which he has accessed from his home computer, to distribute an email to several fellow commission members encouraging them to vote for a particular candidate in an upcoming municipal election.

Ethical Assessment: The State Officials and Employees Ethics Act prohibits this and certain other political activities from being intentionally performed by misappropriating any state property or resources. In this instance, using a state email account, whether accessed from a state computer or a computer owned by the appointee, to solicit votes on behalf of a candidate for elective office, is a violation of the Ethics Act.

7. **Situation:** A state board employee tells a company that is regulated by the board that he will recommend a regulatory decision favorable to the company if the company makes purchases from a business owned by the employee's sister.

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

8. **Situation:** A state board appointee is offered a discount on a new cell phone by a company that provides telephone service to the appointee's board. The discount is offered because the appointee works for the state. This same discount is not available to the general public on the same conditions.

Ethical Assessment: Under the Ethics Act, a company that does business or seeks to do business with an appointee's board, is considered a prohibited source. Therefore, the appointee may not accept a gift, including a merchandise discount, unless one of the law's exceptions applies. In this instance, because the discount is not available to the general public on the same conditions, it may not be lawfully accepted unless it qualifies for one of the gift ban's other exceptions.

9. **Situation:** A state board employee accepts a vendor's offer to buy lunch in order to discuss a problem with equipment that the vendor has provided to the board. The lunch, which takes place at a restaurant, is valued at \$35.

Ethical Assessment: Acceptance of lunch that is paid for by a prohibited source is allowable under the Ethics Act, if the value of any food and refreshments provided by the source on a single calendar day does not exceed \$75. Any gift, including food and refreshments must not be accepted if offered in exchange for an official action and must not violate any other law, regulation, or policy, some of which may be more restrictive than the Ethics Act's gift ban.

10. **Situation:** A former state board employee, whose state employment was recently terminated due to a layoff, has been offered a job by a company that was a party to a state contract that was negotiated and signed by the former state employee. The former state board employee, whose employment termination was not of his own doing, wonders if, because he was laid off, he is subject to the revolving door restrictions that he was told applied to his former position because of its authority to participate in award of state contracts.

Ethical Assessment: Regardless of the basis for the termination of the former employee's state employment, the law prohibits the employee from accepting compensation from an entity related to which the former employee participated personally and substantially in the award of contracts. The employment restriction applies to the former employee for one year after termination of state employment and applies to contracts cumulatively valued at \$25,000 or more.

11. **Situation:** A state employee uses his state-provided computer to access pornographic images via the Internet.

Ethical Assessment: Intentionally accessing such material using state resources or state time is improper and in most instances is specifically prohibited by state agency policies. Violation of such policies will result in disciplinary action, up to and including, termination of state employment, and may, depending upon the circumstances, result in referral of the matter to appropriate authorities for possible criminal prosecution.

12. **Situation:** An employee who recently filed a complaint with the Office of Executive Inspector General is contemplating telling her boss that she no longer wants to accept certain work assignments. The employee believes, despite the fact that the new work assignments are identical in every way to those assigned to her in the past, she can make a case that the assignments are in retaliation for her filing the complaint.

Ethical Assessment: State law prohibits state officials, employees, appointees, or agencies from taking retaliatory action against a state employee who discloses or threatens to disclose to a supervisor or public body misconduct by a state official, employee, appointee, or agency that the state employee reasonably believes is in violation of a law, rule, or regulation. Among other things, retaliatory action includes changing the terms or conditions of employment of a state employee. The law does not

prohibit an employer from disciplining an employee for failing to perform a work assignment that is not determined to be a retaliatory action.

13. **Situation:** A member of a state board, who is subject to the requirement to file an annual Statement of Economic Interests, is reviewing instructions for the form in anticipation of submitting it. He questions the meaning of “professional services.” The form states he must list the names of each entity from which income exceeding \$5,000 was received for his providing professional services during the preceding year.

Ethical Assessment: For purposes of Statements of Economic Interests, the phrase “professional services” is defined to mean services rendered in the practice of law, accounting, engineering, medicine, architecture, dentistry, or clinical psychology.



Acknowledgement of Participation in:

2012 Ethics Training for Appointees to State of Illinois Boards

I certify that I have carefully read and reviewed the content of, and completed 2012 Ethics Training for Appointees to State of Illinois Boards. Furthermore, I certify that I understand my failure to comply with the laws, rules, policies, and procedures referred to within this training course may result in disciplinary action up to and including termination of state employment/appointment, administrative fine, and possible criminal prosecution, depending on the nature of the violation.

Signature

Printed Name
(first, middle initial, last)

Month and Day of Birth
(for example, July 15)

Date

State Board, or Commission Name
(for example, Illinois Commerce Commission)

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