

STATE OFFICIALS AND EMPLOYEES ETHICS ACT – SUMMARY

SECTION 1. ETHICS ACT

The *State Officials and Employees Ethics Act* (5 ILCS 430/) sets forth numerous prohibitions for State employees. The Act also notes other actions that are required of State employees. This document provides a summary of many of these prohibited and required acts.

These ethics requirements apply to all Illinois Secretary of State employees including full time, part-time, temporary, and contractual employees. As a Secretary of State employee, you are expected to maintain the highest ethical standards. Violations of these ethical requirements may result in employment discipline, up to and including discharge. In addition, there are criminal penalties for violations of many of these provisions. Further, by law, you are required to report any requests to engage in prohibited activity by an officer, member, employee or candidate for office in the executive of legislative branch, to the Executive Inspector General or Ethics Officer.

This is a summary only. If you desire additional information concerning the ethics requirements for your job, or if you have any questions about this material, please review the policy manual, the law and contact your immediate supervisor.

SECTION 2. EMPLOYEES

A. Ethics Training

State employees must complete, at least annually and within 30 days of commencing employment, an ethics training program. You will be informed as to when that training will take place. Employees will be required to take the ethics training within 30 days of beginning employment with Secretary of State. Employees are required to certify in writing that they have completed the training. The certification form will appear at the end of the on-line training session.

B. Time Sheets

State employees must periodically submit time sheets documenting the time spent each day on official State business to the nearest quarter hour. Employees must keep track of their time during normal work hours, report it accurately and report any benefit time used for time off.

Employees are required to accurately report their time, including hours worked. Falsification of time records to reflect time not worked is grounds for discipline up to and including discharge.

C. Bribery

Accepting a bribe for performing or as a condition of not performing one's official duties is a Class 2 felony and failing to report a bribe attempt is a Class A misdemeanor.

D. Whistle Blower Protection

No State employee or officer may take any retaliatory action against another State employee because that State employee does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity that the State employee reasonably believes is in violation of a law, rule, or regulation; or
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by an employee of the Secretary of State's Office.
- (3) Refuses to participate in activity that would result in violation of state or federal law.

E. "Retaliatory action" means any change in terms or conditions of employment due the employee's action.

F. Cooperation in Investigations

It is the duty of every Secretary of State employee and officer to cooperate with the Secretary of State's Inspector General and the Executive Inspector General. However, this requirement does not limit or alter a person's existing rights or protections under State or federal law. Employees participating in an investigation are expected to treat the investigation as confidential information.

G. Use of Equipment or Resources for Personal Use

SOS employees may not use any SOS property, laptops, fax machines, printers, etc. for any political or personal use in accordance with SOS Policy.

SECTION 3. POLITICAL ACTIVITIES

A. Political Activities

State employees may not engage in political activities while "on State time." "On State time" does not include authorized vacation time, personal leave, compensatory time or State Holidays. Employees may not intentionally take or use any State property or resources for the benefit of a campaign for elective office or for any political organization. Supervisors cannot require employees to perform political activities as a condition of employment with the State or in consideration for any State compensation or benefit. Below are 15 political activities that the ethics law specifically prohibits state employees from doing on state time.

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
- (2) Soliciting contributions, including the purchase of, selling, distributing, or receiving payment for tickets for political event.
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.
- (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization or for or against any referendum question.
- (5) Surveying or gathering information from potential voters to determine probable vote outcome in connection with a campaign for elective office or on behalf of an organization for political purposes.
- (6) Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
- (8) Initiating, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization.
- (11) Distributing, preparing for distribution, or mailing campaign material.
- (12) Campaigning for any elective office or for or against any referendum question.
- (13) Managing or working on a campaign for elective office or for or against any referendum question.
- (14) Serving as a delegate, alternate, or proxy to a political party convention.
- (15) Participating in any recount or challenge to the outcome of any election.

State employees are not precluded from voluntarily participating in any of these activities while on their own time and using non-state resources.

B. Prohibited Offer or Promise

Secretary of State employees may not promise or offer anything of value related to State government including appointment to board or commission, favorable treatment in an official or regulatory matter, awarding of any public contract, action or inaction on any legislative or regulatory matter, employment, promotions, employment

benefits (i.e. compensation, work schedule, etc.) or salary increases in return for a campaign contribution. Any prohibited promise or offer made to an employee must be immediately reported to the Executive Inspector General or the Ethics Officer. If an employee is told to make such offer or promise, the employee must report it to the Executive Inspector General or Ethics Officer.

C. Contributions on State Property

Campaign contributions may not be intentionally made, offered, solicited, or accepted by public officials, State employees, candidates, or lobbyists in any building owned or leased by the State. (This prohibition does not apply to any portion of a building that is owned or leased by the State and used as a residence.)

D. Time Off for Political Activities

Employees performing political activities or attending political events must use take time off in ½ day increments for such political activities. Such time must be requested and approved in advance.

SECTION 4. GIFT BAN PROVISIONS

As noted above, the Secretary of State Policy Manual prohibits employees from taking anything of value in return for the performance of the employee's official duties, or as a condition for not performing such duties. In addition to this ban on gifts related to job performance, the Ethics Act has a broader ban which regulates gifts from any "prohibited source."

No Secretary of State employee (or their spouse or immediate family member living with them) may ask for or accept any gift from any prohibited source. There are seven listed exceptions to this ban, which are listed below.

- (1) Opportunities, benefits, and services that are available on the same conditions as for the general public.
- (2) Anything for which the employee pays the market value.
- (3) Any (i) contribution that is lawfully made under the Election Code or under the ethics act or (ii) activities associated with a fundraising event in support of a political organization or candidate.
- (4) Travel expenses for a meeting to discuss State business.
- (5) A gift from a relative.
- (6) Intra-governmental and inter-governmental gifts.
- (7) Bequests, inheritances, and other transfers at death.

Each of the exceptions listed in this section is mutually exclusive and independent of one another. It is not a violation of this Act if the gift is promptly returned to its source or if the gift or an amount equal to its value is given to an appropriate charity.

A "prohibited source" is any person or entity who:

- (1) Is seeking official action by the State employee or officer or by the State agency of the employee or officer;
- (2) Does business or seeks to do business with the State employee or officer or with the State agency of the employee or officer;
- (3) Conducts activities regulated by the State employee or officer or by the State agency of the employee or officer;
- (4) Has interests that may be substantially affected by the performance or non-performance of the State employee or officer or by the State agency of the employee or officer; or
- (5) Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

SECTION 5. EX PARTE COMMUNICATIONS

An *ex parte* communication concerning any rulemaking received by a Secretary of State employee must immediately be reported to the agency's ethics officer by the recipient of the communication and by any other employee of the agency who responds to the communication. The ethics officer shall require that the *ex parte* communication promptly be made a part of the record of the rulemaking process.

Any *ex parte* communication received by a Secretary of State Merit Commission, Motor Vehicle Review Board, and Court of Claims employee from an interested party or his or her official representative or attorney shall promptly be reduced to writing and made a part of the record. Any *ex parte* communication shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the *ex parte* communication be promptly made a part of the record.

An "*ex parte* communication" means any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action. "*Ex parte* communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made by a State employee of the agency to the agency head or other employees of that agency. "Interested party" means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by the agency.

SECTION 6. REVOLVING DOOR PROHIBITION

A State employee may not participate 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 a person or company during his or her final year of State employment and then, within one year of leaving State government, knowingly accept employment or receive compensation from the person or company to whom the contracts were awarded. This ban extends to an employee's spouse and immediate family living with such person. A State employee with regulatory or licensing authority may not knowingly accept employment or receive compensation or fees for services from a person or entity if the 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. This ban extends to an employee's spouse and immediate family. There is no waiver of this ban.

The Executive Inspector General may also determine other positions which are subject to these provisions in that the person must notify the Inspector General when they accept non-state employment. The Executive Inspector General will determine whether the employee is restricted from accepting the new employment.

In addition, an employee in the following titles may not accept employment, compensation or fees from a company that was a party to a state contract(s) with a cumulative value of \$25,000 or more, or who was subject to a regulatory or licensing decision, regardless of whether the employee participated personally or substantially:

- Head of department, commission, board, division, bureau, authority or other administrative unit within state government;
- Members of a commission or board created by the Illinois Constitution;
- Chief procurement officers, state purchasing officers; and their designees;
- Chiefs of staff, deputy chiefs of staff, associate chiefs of staff and assistant chiefs of staff.

SECTION 7. PROMOTIONAL MATERIALS

No public service announcement or advertisement that is on behalf of any State administered program and contains the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly shall be broadcast or aired on radio or television or printed in a commercial newspaper or a commercial magazine at any time.

The proper name or image of any executive branch constitutional officer or member of the General Assembly may not appear on any (i) bumper stickers, (ii) commercial billboards, (iii) lapel pins or buttons, (iv) magnets, (v) stickers, and (vi) other similar promotional items, that are not in furtherance of the person's official State duties or governmental and public service functions, if designed, paid for, prepared, or distributed using public dollars. This subsection does not apply to stocks of items existing on the effective date of this amendatory Act of the 93rd General Assembly.

SECTION 8. PROCUREMENT COMMUNICATIONS (effective January 1, 2011)

Any written or oral communication received by a State employee that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including, but not limited to, an application, a contract, or a project, shall be reported to the Procurement Policy Board; except that the following communications do not need to be reported:

- (1) statements by a person publicly made in a public forum;
- (2) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and
- (3) statements made by a State employee of the agency to the agency head or other employees of that agency or to the employees of the Executive Ethics Commission.

For purposes of this reporting requirement, "material information" is the type of information that may cause a buyer to act differently knowing the information, or the type of information a buyer would be expected to rely on in making a decision whether to purchase.

A form for completing the reports will be available on ABE. The report must be completed by the employee within 14 days after the communication and submitted to the employee's department director. The report must include the following information:

- (1) the date and time of each communication;
- (2) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended;
- (3) the identity and job title of the person to whom each communication was made;
- (4) if a response is made, the identity and job title of the person making each response.
- (5) a detailed summary of the points made by each person involved in the communication;
- (6) the duration of the communication;
- (7) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and
- (8) any other pertinent information.

Within 14 days after receiving the report, the department director is to review the report and forward it to the Secretary of State Procurement Policy Board.

If the communication is initially received by a director, the director is to complete the report form and submit the form to the Secretary of State procurement compliance monitor within 14 days after the communication. Within 14 days after receiving the report, the procurement compliance monitor shall review the report and forward it to the Secretary of State Procurement Policy Board.