



ILLINOIS
EXECUTIVE
ETHICS
COMMISSION

FISCAL YEAR 2005
ANNUAL REPORT

Dear Employees and Citizens of the State of Illinois:

On December 9, 2003, Governor Rod Blagojevich signed legislation creating the State Officials and Employees Ethics Act.

The Ethics Act, among other things, created the Executive Ethics Commission. This law charges the Commission with many responsibilities including the duty to educate employees on state ethics rules and, if necessary, to discipline employees who violate those rules.

In our first year, the Executive Ethics Commission moved quickly to implement the new ethics law and strengthen the law's provisions. Specifically, the Commission has:

- Helped train 115,000 state officers and employees on the new ethics rules.
- Advised the five Executive Inspectors General on the implementation of the new ethics law.
- Published guides concerning two prominent ethics issues—whistle blowing and the revolving door.
- Distributed over 8,000 copies of these ethics guides to State employees.
- Provided frequent counsel to the more than 60 state agency ethics officers on the law's provisions.
- Promulgated rules that govern the performance of Commission duties and the investigations by Executive Inspectors General.
- Submitted to the legislature and Governor a comprehensive plan to bolster the Commission's disciplinary role, enhance ethics investigation transparency, and further improve the ethical climate in Illinois.
- Testified at a Senate State Government Committee hearing on the Commission's proposed legislative solutions to strengthen the law.
- Issued multiple decisions on revolving door waiver petitions.
- Launched the Commission website, www.eec.illinois.gov which provides information and resources related to ethics issues.

This report summarizes Commission activities since July 2004 and is available on the Commission's website. For more information, please contact the Executive Ethics Commission Executive Director Chad Fornoff at (217) 558-1393.

Sincerely,

Scott Turow
Chair
Executive Ethics Commission

■ Executive Ethics Commission and Staff—Background

The Executive Ethics Commission comprises nine commissioners appointed by the five executive branch Constitutional officers. The Governor appoints five of the nine Commissioners, and the Attorney General, Secretary of State, Treasurer, and Comptroller each appoint one. The Senate confirms the commissioners who serve staggered terms of three or four years.

No more than five commissioners may be members of the same political party, and commissioners must avoid engaging in any political activity during the term of their appointment.

■ Members

- Scott F. Turow, Chair – Governor’s appointee from Winnetka. Scott F. Turow is an author and partner with the law firm Sonnenschein, Nath and Rosenthal. Scott.Turow@illinois.gov
- Ellen C. Craig, Vice Chair – Governor’s appointee from Chicago. Ellen C. Craig is a telecommunications consultant and former Chairman of the Illinois Commerce Commission. Ellen.Craig@illinois.gov
- James Faught, Secretary – Comptroller’s appointee from Wilmette. James Faught is the Associate Dean for Administration at Loyola University Chicago School of Law. James.Faught@illinois.gov
- James M. Brennan - Governor’s appointee from Wheaton. James M. Brennan is Legal Counsel and Chief Ethics Officer for Midi, Inc. James.Brennan@illinois.gov
- John Cusick – Governor’s appointee from Chicago. Father John Cusick is the Director of Young Adult Ministry for the Roman Catholic Archdiocese of Chicago. John.Cusick@illinois.gov
- Shawn Denney – Attorney General’s appointee from Springfield. Father Shawn Denney is Archdeacon of the Springfield, Illinois Diocese of the Episcopal Church and former Senior Counsel to the Illinois Attorney General. Shawn.Denney@illinois.gov
- Frederick J. Hess – Treasurer’s appointee from Belleville. Frederick J. Hess is a partner with the law firm Lewis, Rice & Fingersh, L.C. and former United States Attorney for the Southern and Eastern Districts of Illinois. Frederick.Hess@illinois.gov
- Maria Kuzas – Secretary of State’s appointee from Chicago. Maria Kuzas is a registered nurse and manager at Northwestern Memorial Hospital. Maria.Kuzas@illinois.gov
- Lawrence Oliver II – Governor’s appointee from Orland Park. Lawrence Oliver II is Chief Counsel, Investigations at The Boeing Company, a former federal prosecutor and an Ordained Minister. Lawrence.Oliver@illinois.gov

■ Staff

- Chad Fornoff, Executive Director - Chad Fornoff is a former Illinois Assistant Attorney General and was most recently Chief Legal Counsel to the Illinois Court of Claims. Chad.Fornoff@illinois.gov
- Jeris Gordley, Office Manager - Jeris Gordley is a former 26-year employee of the Illinois Secretary of State who worked in the Court of Claims division and directed the Employee of the Month program for the entire agency. Jeris.Gordley@illinois.gov

▣ **Duties of the Executive Ethics Commission**

The Ethics Act empowers the Commission to:

1. Promulgate rules governing the performance of Commission duties and governing the investigations of the Executive Inspectors General.
2. Conduct administrative hearings on investigations brought before the Commission by an Executive Inspector General.
3. Receive periodic reports from the Executive Inspectors General and the Attorney General regarding ongoing and completed investigations.
4. Prepare and publish manuals and guides and oversee training of executive agency employees.
5. Prepare public information materials to facilitate compliance, implementation, and enforcement of the Ethics Act.
6. Make rulings, issue recommendations and impose administrative fines on ethics cases brought before it.
7. Issue subpoenas with respect to matters pending before the Commission.
8. Appoint Special Executive Inspectors General to investigate Executive Inspectors General or to pursue investigations of executive agency ethical misconduct allegations that have failed to be resolved within six months.
9. Consider petitions to waive the revolving door prohibition on certain former state employees.
10. Receive reports of ex parte communications that each agency and constitutional officer is required to file with the Commission.

▣ **Rulemaking—Commission Moved Swiftly to Open for Business**

At its inauguration, the Executive Ethics Commission quickly promulgated rules to govern its duties and the investigations of the Executive Inspectors General.

The Commission filed emergency rules which appeared in the March 4, 2005 Illinois Register. The adopted rules were published in Volume 29, Issue 28 of the Illinois Register (July 8, 2005) and have been codified at 2 Ill. Adm. Code 1620.

These rules describe the Commission's organization, explain Freedom of Information Act requests procedures, regulate the conduct of investigations by the Executive Inspectors General, define certain terms contained in Article 10 of the Ethics Act, and set procedures for the conduct of disciplinary hearings, "revolving door" prohibition waiver requests, and reports filed by state officers and employees.

▣ **Education and Training—Commission Helped Train 115,000 State Employees in 2005**

The Executive Ethics Commission helped train and educate approximately 115,000 state employees on new ethics rules in fiscal year 2005.

• **Oversight of Annual Ethics Training**

Exercising its training oversight responsibility, the Commission established an ethics training committee, chaired by Commissioner Ellen Craig. The committee reviews and approves the annual ethics training programs of the Executive Inspectors General for the Governor, the Attorney General, the Secretary of State, the Comptroller and the Treasurer.

- **Publications**

The Commission published and distributed multiple brochures to employees, highlighting the revolving door prohibition, whistle blowing, and state vendor rules. The Commission distributed 8000 brochure copies to employees and vendors and posted the content on the Commission's Web site.

Additionally, Commission Executive Director Chad D. Fornoff wrote "Executive Ethics Commission," an article published in *Summary of Illinois Administrative Agencies: 2005 Quick Guide* by the Illinois Institute for Continuing Legal Education, Springfield, 2005.

■ **Web site Goes Live—Answers Questions, Provides Statistics**

To help quickly answer questions from state employees and the public, the Commission launched its web site: <http://www.eec.illinois.gov> in 2005.

The web site answers frequently asked ethics questions, provides contact information for the Commission and other ethics entities, researches the Ethics Act and Commission rules, displays quarterly investigation statistics, and discloses Commission decisions.

The web site adds new information frequently. For example, the Commission site display "Spotlights" –an ethics trends news page—and is constructing an e-forum for state ethics officers to share best-practice ideas and methods.

■ **State Agency Ethics Officers, Executive Ethics Commission Working Together**

Each state executive agency and constitutional office is required to designate an ethics officer whose responsibilities include acting as a liaison between the state agency and the Commission.

The Commission receives frequent inquiries from ethics officers concerning the interpretation and implementation of the Ethics Act.

The Commission also serves as a clearinghouse among the ethics officers for best ethics practices. The Commission has recently created a bulletin board on its website that will further facilitate the exchange of ideas and information among the ethics officers. In addition, the Commission will host a training conference for ethics officers in March 2006.

■ **Employee discipline**

The General Assembly requires the Commission to conduct administrative hearings on investigations of suspected employee wrongdoing, whenever an Executive Inspector General chooses (with the concurrence of the Attorney General) to bring a claim before the Commission.

Reports forwarded to the Commission indicate that during FY 2005, the five Executive Inspectors General have received over 1500 complaints of wrongdoing and have initiated over 500 investigations. To date, no Executive Inspector General has brought a matter before the Commission. See chart below:

■ FY2005

	Allegations Received	Investigations Initiated	Investigations Concluded	Investigations Pending	Actions Filed with EEC	Complaints forwarded to AG	OEIG
<u>1st Quarter</u>							
7/1/04	250	n/a	49	213	0	0	Governor
9/30/04	80	31	55	14	0	0	Secretary of State
	9	1	1	0	0	0	Attorney General
	2	1	0	1	0	0	Comptroller
	0	1	1	0	0	0	Treasurer
<u>2nd Quarter</u>							
10/1/04-	263	125	125	204	0	0	Governor
12/31/04	55	33	32	29	0	0	Secretary of State
	11	1	0	0	0	0	Attorney General
	0	0	0	1	0	0	Comptroller
	1	1	1	0	0	0	Treasurer
<u>3rd Quarter</u>							
1/1/05-	319	112	98	208	0	0	Governor
3/31/05	85	29	33	42	0	0	Secretary of State
	23	12	9	4	0	0	Attorney General
	0	1	1	1	0	0	Comptroller
	1	1	1	0	0	0	Treasurer
<u>4th Quarter</u>							
4/1/05-	313	106	130	186	0	0	Governor
6/30/05	84	42	39	45	0	0	Secretary of State
	24	7	10	1	0	0	Attorney General
	0	0	0	1	0	0	Comptroller
	3	3	3	0	0	0	Treasurer

■ Revolving Door Waivers

The Commission decided four revolving door prohibition waiver petitions in 2005.

The revolving door provision forbids certain state officers and employees from accepting employment from particular employers for one year after ending their state employment. Specifically, the revolving door

provision affects employees who, in the year prior to termination of State service, had the following interaction with their prospective new employer:

- 1) Participated personally and substantially in the decision to award that entity with State contracts with a cumulative value of over \$25,000; or
- 2) Made regulatory or licensing decisions materially affecting that entity.

The law also applies to an employee's spouse and immediate family members living at home.

Employees may petition the Commission for a waiver of this rule.

During FY 2005, the Commission received four revolving door petitions. After considering the petition and supporting documents from the ethics officers, the Commission granted two petitions and denied one and determined that the prohibition did not apply to one petition.

Summaries of these decisions may be found at the Commission's web site, www.illinois.gov.eec.

■ ***Ex parte* communication reports**

Each agency and constitutional officer is required to file reports of *ex parte* communications with the Commission. *Ex parte* communications are those oral or written communications made to an agency during the rulemaking period or related to a regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the agency.

During FY 05, the Commission received 31 reports of *ex parte* communications from many different State agencies.

The Executive Director reviews these reports and forwards significant reports to the Commission for discussion and possible referral. The Commission expects that the number of reports will increase as more employees and ethics officers become aware of this provision. The Commission is increasing awareness of this provision by preparing an Ethics Officer Handbook for each agency, and by hosting a conference for ethics officers in March 2006.

■ **Legislative initiatives—Expand transparency of investigations**

Based on the Commission's experience with the implementation of the Ethics Act it has identified certain provisions that should be improved. Therefore, the Commission has recommended the following legislative solutions to the General Assembly and the Governor:

- Cases alleging serious employee misconduct, perhaps those involving a penalty of a three-day suspension or more, should automatically be brought to the Commission. Alternatively, the Commission should have a role in approving penalties.
- The Act should be clarified as to the requirement that timekeeping be maintained for official work hours.
- The Commission should have increased oversight over ethics training.
- The revolving door prohibition and gift ban should be strengthened.

- The process for reporting ex parte communications should be clarified and simplified.
- The Commission's ability to appoint Special Executive Inspectors General should be expanded to encompass certain additional situations.
- The duties of the Commission should be harmonized with employees' rights contained in collective bargaining agreements.

The Commission looks forward to working with the General Assembly, the Governor and the Executive Inspectors General in order to strengthen the Ethics Act and continue to improve the ethical climate in Illinois. The Commission will continue to fulfill its mission to promote ethics in public service, and to help ensure that State business is conducted with transparency, fairness and integrity.

December 9, 2005
