**Section 1620.300 Conduct of Investigations**

a) Policy and Procedures Manual

1) All investigations by an Executive Inspector General or the Executive Inspector General's employees (collectively known as EIG) shall be conducted in accordance with procedures contained within this Part and within a policy and procedures manual developed by the EIG and approved by the Executive Ethics Commission. Approval shall be based on compliance with the Act, this Part and other applicable law. A policy and procedures manual should give direction to EIG employees that supplement the requirements of the Act and this Part.

2) The policy and procedures manual described in subsection (c) shall be submitted for approval to the Executive Ethics Commission within 90 days after July 1, 2008. Any future amendments to the policy and procedures manual shall be subject to the Commission's approval. An updated policy and procedures manual for each EIG shall be posted on the EEC website. Portions of the policy and procedures manual that may compromise the integrity of investigations or confidential investigative techniques may be redacted by the EEC after consultation with the appropriate EIG.

b) Waiver of Policy and Procedures Manual Provisions

1) Waiver by the Commission

Upon written petition by an Executive Inspector General and a finding that the waiver is, in the particular context, necessary to avoid compromising the integrity of an investigation, the Commission may grant a waiver of the subsection (c)(6) requirement that requests for documents or physical objects be in writing.

2) Temporary Waiver by the Chair

The Chair of the Commission, or the Chair's designee, may likewise grant a waiver of the subsection (c)(7) requirement that requests for documents or physical objects be made in writing in response to an oral or written request by an EIG if the Chair or the Chair's designee finds that the waiver is, in the particular context, necessary to avoid compromising the integrity of an investigation, and provided that, within 72 hours after the waiver, the Executive Inspector General files a written request to the Commission. A waiver granted by the Chair pursuant to this subsection (b)(2) may be withdrawn by the Chair at any time if the Chair no longer reasonably believes that the waiver is necessary to avoid compromising the integrity of an investigation.

c) The policy and procedures manual shall include, but not be limited to, the following:

1) An EIG shall accept case initiation forms from State of Illinois employees and the general public in accordance with Section 1620.320.

2) An EIG shall not investigate allegations of violations of State or federal law or this Part made against an EIG (including the EIG's employees). An EIG shall not investigate allegations of violations of State or federal law or of this Part if an EIG (including the EIG's employees) could be reasonably deemed to be a wrongdoer or suspect. Instead, in such cases, the EIG shall promptly refer all such allegations to the EEC for consideration of appointment of a Special Executive Inspector General.

3) Within 5 business days either after the receipt of a complaint in which a 20-63 Complainant is identified or after the subsequent identification or location of a person who was subjected to the discrimination, harassment, or sexual harassment as alleged in a pending complaint, the EIG shall notify the 20-63 Complainant *of the receipt of the complaint, the complainant's rights, and an explanation of the process, rules, and procedures related to the investigation of an allegation*, and of the duties of the EIG and the EEC. [5 ILCS 430/20-63] The notification shall be transmitted to the 20-63 Complainant by letter or appropriate electronic means.

4) Within 30 calendar days after receipt of a case initiation form as described in Section 1620.320, the EIG shall do one of 5 things:

A) Determine that no investigation is appropriate; or

B) Open an investigation file pursuant to Section 1620.330 and commence an investigation; or

C) Refer the case initiation form to the appropriate EIG, the Executive Ethics Commission or other appropriate body as described in Section 1620.340 and take no further action; or

D) Suspend the investigation pending review of the outcome of other proceedings; or

E) Refer the investigation to the Executive Ethics Commission for consideration of appointment of a Special Executive Inspector General.

5) The EIG shall notify a 20-63 Complainant of the EIG's decision to open or close an investigation into the relevant complaint or to refer the complaint to another appropriate agency within 5 business days after the decision is made. If, however, the EIG *reasonably determines that publicly acknowledging the existence of an investigation would interfere with the conduct or completion of that investigation, the notification may be withheld until public acknowledgment of the investigation would no longer interfere with that investigation*. [5 ILCS 430/20-63]

6) Each EIG shall disclose the opening of all investigation files, as described in Section 1620.330, in writing to the Executive Ethics Commission. The disclosure shall identify the affected office, agency or agencies, the date the investigation was opened, and the investigation's unique tracking number. Reports on all investigations opened in a calendar month shall be submitted to the Commission on or before the 15th day of the following month.

7) All EIG requests for production of or viewing of documents or physical objects under office or agency control shall be made in writing; provided, however, that the Commission may exempt any EIG who functions wholly within a single office or agency from the application of this requirement upon joint petition by the EIG and the affected office or agency. A written request for documents or physical objects shall state that the recipient of the request, should the recipient believe that the release of the subject matter of the request might violate existing rights or protections under State or federal law, has the right to seek a determination from the Commission relative to such rights or protections, if desired. An EIG may take reasonable steps to seal or otherwise ensure the integrity of the requested documents or physical objects pending the Commission's determination. If security concerns demand the removal of sealed documents or physical objects, the EIG shall issue a subpoena before removal. The Commission shall consider the applicability of the right or protection asserted and issue a determination within 5 business days; provided, however that where delay for such a period could place an investigation in jeopardy, an EIG may request expedited consideration. The recipient and Commission shall maintain confidentiality about the request so as to minimize any risk of compromising the investigation. The recipient may assert any existing rights or protections under State or federal law with respect to the request, and such assertions made in good faith do not constitute failure to cooperate in an investigation.

8) An EIG desiring to interview any State officer or employee who is the subject of an EIG investigation and whom the EIG, based on the information available at the time of the interview, reasonably believes likely faces discipline shall notify the interviewee whether the underlying investigation is criminal or administrative in nature. If the underlying investigation is criminal in nature, the interviewee shall 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 interviewee shall be presented a form that outlines the interviewee's rights during the interview, including the right to presence of a union representative or coworker uninvolved in the investigation. In both criminal and administrative investigations, the interviewee shall sign the 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. All forms presented to interviewees shall be pre-approved by the Commission. If, at any point, an interview subject requests the presence of a person authorized by this subsection (c)(8) or an attorney, the interview shall be suspended, and a new date and time set. Evidence obtained directly or indirectly in violation of this subsection (c) is not admissible in any proceeding before the Executive Ethics Commission.

9) No EIG shall infringe upon the right of employees or officers to seek advice from their agency ethics officer on the interpretation and implementation of the Act, or to seek advice from private legal counsel.

10) Conduct of Interview

A) Interviews shall be conducted in a businesslike manner. The investigator shall avoid any personality clashes, acts of undue familiarity, abuse, or use of profanity. The investigator shall treat all persons interviewed with respect and not unduly embarrass, inconvenience, intimidate or degrade the interviewee.

B) Any armed State employee present shall not use firearms in any manner that might intimidate unless anyone in the room is physically threatened.

C) Interviewees enjoy all rights in the course of an interview protected by the Constitution of the United States and federal and State law.

D) The duty to cooperate in investigations as provided at 5 ILCS 430/20-70 does not include restriction on those rights.

E) In the event that the subject of an interview believes that the investigator has operated in violation of this Part, or in violation of applicable law, the interviewee may file a written objection with the Commission, setting forth with specificity the nature of the alleged violation. Within 30 days after receiving the objection, the Commission shall issue a written finding either sustaining or overruling the objection, shall appoint a Special Executive Inspector General to discover more facts (by interviewing witnesses, etc.), or shall refer the issue to an appropriate law enforcement authority. If the Commission sustains the objection, it shall issue a copy of its finding to the EIG to whom the investigator reports, as well as make public a copy of its finding. Subjects of the complaint process described in this subsection (c)(11)(E) are entitled to due process of law.

11) State employees who are subjects of EIG interviews and whom the EIG, based on the information available at the time of the interview, reasonably believes likely faces discipline, shall be presented a form that outlines their rights during the interview. The form shall also clearly indicate that the interviewee has the right to refuse to consent to have the interview recorded and the right to stop the recording of the interview at any time and that refusing to consent to have the interview recorded or to stop the recording at any time shall not constitute failure to cooperate in the investigation or otherwise subject the interviewee to any discipline. The form shall also indicate that the interviewee may request at any time that the interview be recorded. If the interviewee requests at any time that the interview be recorded, the interviewer shall honor this request, stop the interview and immediately provide the employee a request to record form. Upon execution of a request to record form, the interview and all future interviews of the subject shall be recorded by mechanical, digital or other means. All forms and recordings shall be preserved, unedited, in the investigation file. Nothing in this subsection (c)(11) shall be construed to require the recording of interviews other than pursuant to an appropriately executed request of the interviewee. The interviewee shall sign the form, attesting only to the fact that the form was presented to the interviewee and that the interviewee was given the opportunity to read it.

12) Upon completion of investigations, the EIG or the EIG's designee shall write a final report summarizing the background of the investigation, the allegations, investigative steps taken and conclusions drawn. The final report shall include a recommendation regarding appropriate action. An investigation is deemed completed for purposes of this Part when all processes of internal review of the investigation and of the final report have terminated.

13) The policy and procedures manual may contain additional policies or procedures not inconsistent with this Part, subject to Commission approval as outlined in subsection (a)(2).

d) The EIG shall determine a reasonable time, place, and manner for a 20-63 Complainant to exercise the Complainant's right to review, in person, any transcript or interview report created from an audio recording of the Complainant's interview and shall make reasonable accommodations as necessary.

e) Any person may complain to the Commission, in writing, concerning an EIG's alleged violation of the Act or this Part. Upon receipt of a complaint, the Commission may notify the EIG and require the EIG to provide information related to the investigation in order to determine whether any conduct has occurred that would require the Commission to appoint a Special Executive Inspector General pursuant to 5 ILCS 430/20-21. Under those circumstances, the Commission deems the EIG's disclosure of that information to the Commission to be "necessary" as provided at 5 ILCS 430/20-95(d).

(Source: Amended at 47 Ill. Reg. 12045, effective July 31, 2023)