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2 ILLINOIS ADMINISTRATIVE CODE 3430

SUBTITLE E

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER LXIV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 3430  
OFFICE OF THE INSPECTOR GENERAL

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3430.150	Bi-Annual Summary of Reports and Investigations

AUTHORITY: Implementing and authorized by Section 8.5 of the Toll Highway Act [605 ILCS 10/8.5].

SOURCE: Adopted at 35 Ill. Reg. 18420, effective OCT 19 2011.

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**Section 3430.10 Definitions**

"Act" means the Toll Highway Act [605 ILCS 10].

"Appropriate Authority" means:

The Authority's Executive Director and the Board of Directors for investigations not involving the Board.

The Chair of the Board and the Governor for investigations of any Board member other than the Chair of the Board.

The Governor for investigations of the Chair of the Board (see 605 ILCS 10/8.5(f)(3)).

"Authority" means the Illinois State Toll Highway Authority as defined by Section 3 of the Act.

"Board of the Authority" or "Board" or "Board members" means the directors of the Authority as defined by Section 3 of the Act.

"Business Day" means any calendar day except Saturday, Sunday or a State holiday, in which event the period runs to the end of the next business day.

"Chair of the Board" means the appointed chairperson of the Board of the Authority as defined by Section 4 of the Act.

"Day" means any calendar day.

"Employee of the Authority" means any person employed full-time, part-time or pursuant to a contract with the Authority.

"Ethics Officer" means the person appointed by the Executive Director of the Authority pursuant to Section 20-23 of the State Officials and Employees Ethics Act [5 ILCS 430/20-23].

"Executive Director" means the Executive Director of the Authority.

"Fraudulent Concealment" means *an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred* [605 ILCS 10/8.5(d)].

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"Inspector General" means the Toll Highway Inspector General appointed under Section 8.5 of the Act.

"Officers of the Authority" means the Executive Staff of the Authority.

"OEIG" means the Office of the Governor's Executive Inspector General as defined by Section 20-10 of the State Officials and Employees Ethics Act [5 ILCS 430/20-10].

"OIG" means the Office of Inspector General for the Authority and includes the Inspector General, investigators, employees and agents of the Office.

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ISSUANCE

**Section 3430.20 Jurisdiction**

The OIG *shall have jurisdiction over the Authority and all Board members, officers, and employees of, and vendors, subcontractors, and others doing business with, the Authority* [605 ILCS 10/8.5(d)]. However, the jurisdiction to investigate alleged violations of the State Officials and Employees Ethics Act [5 ILCS 430] shall remain with the OEIG.

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**Section 3430.30 Statute of Limitations**

*An investigation may not be initiated more than five years after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred [605 ILCS 10/8.5(d)].*

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**Section 3430.40 Collective Bargaining**

All preliminary investigations, inquiries, investigations and recommendations of discipline or other action against any employee shall be conducted in compliance with the provisions of the applicable collective bargaining agreement.

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REVISIONS

**Section 3430.50 Cooperation**

- a) *All Board members, officers and employees of the Authority have a duty to cooperate with the Toll Highway Inspector General and employees of the Office of the Toll Highway Inspector General in any investigation undertaken pursuant to this Section [605 ILCS 10/8.5(j)].*
- b) The Inspector General shall *have access to all information and personnel necessary to perform the duties of the office [605 ILCS 10/8.5(f)(1)].*
- c) Any Authority employee who knowingly files a false complaint or files a complaint with reckless disregard for the truthfulness of the underlying facts may be subject to discipline (see 605 ILCS 10/8.5(f)(9)).

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**Section 3430.60 Confidentiality Requirements**

- a) *The identity of any individual providing information or reporting any possible or alleged misconduct to the Toll Highway Inspector General shall be kept confidential and may not be disclosed without the consent of that individual [605 ILCS 10/8.5(k)(1)].*
- b) *The confidentiality requirements do not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation [605 ILCS 10/8.5(k)(1)].*
- c) *The identity of an individual providing information or reporting any possible or alleged misconduct may be disclosed if otherwise required by law (see 605 ILCS 10/8.5(k)(1)).*
- d) *Subject to the provisions of this Part, the OIG shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act [5 ILCS 140] or by this Act [605 ILCS 10/8.5(k)(2)].*
- e) *The results of OEIG investigations reported to the OIG shall remain subject to any applicable confidentiality provisions in the State Officials and Employees Ethics Act [605 ILCS 10/8.5(d)].*

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**Section 3430.70 Initiating an Investigation**

- a) *Investigations may be based on complaints from any source, including anonymous sources, and may be self-initiated, without a complaint [605 ILCS 10/8.5(d)].*
- 1) The OIG shall *receive and investigate complaints or information from an employee of the Authority concerning the possible existence of an activity constituting a violation of law, rules or regulations, mismanagement, abuse of authority, or substantial and specific danger to the public health and safety [605 ILCS 10/8.5(f)(9)].*
  - 2) The OIG also investigates allegations of *fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance [605 ILCS 10/8(e)(1)].*
  - 3) The OIG shall *review hiring and employment files of the Authority to ensure compliance with Rutan v. Republican Party of Illinois, 497 U.S. 62 (1990), and with all applicable employment laws [605 ILCS 10/8.5(f)(7)].*
- b) Within 30 business days after the receipt of the complaint, allegation, or information, the OIG shall conduct a preliminary investigation to determine if it suggests possible misconduct or violation of any rule, regulation, policy or law.
- c) The minimum requirements for initiating an investigation include, but are not limited to, the following:
- 1) Jurisdiction.
  - 2) Statute of limitations.
  - 3) Whether the allegations can be independently verified through investigation.
- d) After conducting the preliminary investigation and considering the minimum requirements for initiating an investigation and any other relevant information, the Inspector General shall determine whether the OIG shall:
- 1) Not conduct an investigation.
  - 2) Open an investigation.

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- 3) Refer the complaint, allegation or information to the appropriate agency, individual or entity.
- 4) Consolidate the matter with a pending investigation of a similar nature.
- 5) Suspend opening an investigation pending an external investigation or legal proceeding by law enforcement, prosecutorial entity, or other governmental entity.

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**Section 3430.80 Investigations**

- a) Once an investigation has been opened, it shall be assigned a unique tracking number and the Inspector General shall assign an investigator to conduct the investigation.
- b) At a minimum, all investigations are required to be conducted autonomously, independent of direction from the Authority, impartially, and in a professional and timely manner. Investigations shall be properly documented to ensure the appropriate handling and correct recording of all investigations.
- c) Possible methods of investigation include, but are not limited to, the following:
  - 1) Site visits.
  - 2) Telephone contacts.
  - 3) Personal interviews.
  - 4) Requests for written responses.
  - 5) Voluntary production of documents and/or information.
  - 6) Seizure and analysis of State, vendor or subcontractor property and documents, including electronic files and databases.
  - 7) Document requests.
  - 8) Subpoenas for records and/or testimony.
- d) Determining which method of investigation is appropriate will vary depending on the nature of the allegation and the balancing of various criteria that include, but are not limited to, the following:
  - 1) Maintaining the confidentiality of the complainant and/or source of the information and other confidentiality requirements.
  - 2) The efficient use of OIG time and resources.
  - 3) The type of information being sought.

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- 4) Whether the allegation is ongoing and/or involves possible danger to the health or safety of employees or the public.
  - 5) Whether the destruction or altering of evidence is possible and/or likely.
  - 6) Availability of potential witnesses and/or information.
- e) Minimum investigatory requirements for completing an investigation:
- 1) An investigation will be sustained if the Inspector General *determines that reasonable cause exists to believe that fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance has occurred* [605 ILCS 10/8.5(e)(1)].
  - 2) An investigation will be closed if the Inspector General *concludes that there is insufficient evidence that a violation has occurred* [605 ILCS 10/8.5(e)(4)]. The Inspector General may close an investigation if, during the course of the investigation, the OIG determines that the events under investigation took place outside of the applicable statute of limitations, that the subjects of the investigation are not under the OIG's jurisdiction, or if the investigation is referred elsewhere.
  - 3) A complete OIG investigation consists of the retrieval of relevant records, review of all relevant documentation, and interviews of all relevant persons.
- f) Subpoena Powers
- 1) *The Inspector General shall have the power to subpoena witnesses and compel the production of books and papers pertinent to an investigation* [605 ILCS 10/8.5(f)(2)].
  - 2) Only the Inspector General may issue a subpoena, not members of the Inspector General's staff. (See 605 ILCS 10/8.5(f)(2).)
  - 3) The Inspector General may not subpoena a *person or documents of a labor organization or its representatives insofar as the person or documents of a labor organization relate to the function of representing an employee subject to investigation under this Section* [605 ILCS 10/8.5(f)(2)].
  - 4) *Subject to a person's privilege against self-incrimination, any person who fails to appear in response to a subpoena, answer any question, or produce any books or papers pertinent to an investigation under this*

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*Section, except as otherwise provided in this Section, or who knowingly gives false testimony in relation to an investigation under this Section is guilty of a Class A misdemeanor [605 ILCS 10/8.5(f)(2)].*

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**Section 3430.90 Interaction with Law Enforcement and Other Agencies**

- a) The OIG shall *participate in or conduct, when appropriate, multi-jurisdictional investigations provided the investigation involves the Authority in some way, including, but not limited to, joint investigations with the Office of the Governor's Executive Inspector General, or with State, local, or federal law enforcement authorities* [605 ILCS 10/8.5(f)(5)].
- b) *The Inspector General shall serve as the Authority's primary liaison with law enforcement, investigatory, and prosecutorial agencies* [605 ILCS 10/8.5(f)(6)].
  - 1) As such, Authority employees shall report all known or suspected criminal acts impacting or resulting from the duties of employees to the Inspector General, who will coordinate with the relevant local, State, or federal law enforcement authorities.
  - 2) The Inspector General may render investigative assistance to law enforcement, investigatory and prosecutorial agencies, the OEIG, Authority personnel, or other State agencies. The assistance may include multi-jurisdictional investigations or the Inspector General may pursue an investigation independently.
  - 3) As the liaison, the Inspector General *may request any information or assistance that may be necessary for carrying out his or her duties and responsibilities from any local, State or federal governmental agency or unit thereof* [605 ILCS 10/8.5(f)(6)].

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**Section 3430.100 Summary Reports**

- a) *If the Toll Highway Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance has occurred, then the Toll Highway Inspector General shall issue a summary report of the investigation [605 ILCS 10/8.5(e)(1)].*
- b) *The summary report of the investigation shall include the following:*
  - 1) *The unique tracking number assigned to the investigation.*
  - 2) *A summary of the investigative steps taken. The OIG need not disclose any confidential investigatory techniques.*
  - 3) *A description of any allegations or other information received by the Toll Highway Inspector General pertinent to the investigation.*
  - 4) *A description of any alleged misconduct discovered in the course of the investigation.*
  - 5) *Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.*
  - 6) *Other information the Toll Highway Inspector General deems relevant to the investigation or resulting recommendations [605 ILCS 10/8.5(e)(2)].*

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**Section 3430.110 Written Statements**

The Inspector General shall provide the appropriate authority with a written statement of his or her decision to close an investigation *when the Toll Highway Inspector General concludes that there is insufficient evidence that a violation has occurred* [605 ILCS 10/8.5(e)(4)].

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SUB-COMMITTEE



**Section 3430.120 Recommendations**

- a) After completing an investigation, the Inspector General may make recommendations to the appropriate authority.
- b) Examples of the types of recommendations that may be made include, but are not limited to:
  - 1) Corrective or remedial action against any person or entity that falls under the OIG's jurisdiction.
  - 2) Suspension or debarment of a contractor, vendor, subcontractor or others doing business with the Authority.
  - 3) Discipline up to and including discharge.
  - 4) Methods and procedures to increase the integrity of the Authority and/or prevent fraud, corruption, waste and mismanagement in the Authority.
  - 5) Coordination, reform, review or creation of policies, practices, methods or procedures.
  - 6) Case-specific action.
- c) Recommendations may be made in a summary report or in conjunction with a written statement.

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**Section 3430.130 Responses**

- a) The appropriate authority shall determine, and state in its response, whether to accept, reject or request a modification of each recommendation.
  - 1) If the recommendation is accepted, the appropriate authority shall describe how it will be implemented and the expected timeframe for a final disposition of the recommendation.
  - 2) If the recommendation is rejected, the appropriate authority shall explain its rationale for the rejection.
  - 3) If a modification of the recommendation is requested, the appropriate authority shall explain its rationale for the request and propose an alternate recommendation.
  - 4) The appropriate authority may include any other relevant information it deems necessary to explain and/or describe its response.
- b) The Inspector General may request additional information and/or updates to a response from the appropriate authority.

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ENCLOSURE

**Section 3430.140 Release of Summary Reports and Responses**

- a) *Summary reports shall be delivered to the appropriate authority, which shall have 20 days to respond to the report [605 ILCS 10/8.5(e)(1)].*
- b) If the Inspector General intends to make a summary report public, the summary report and response shall be redacted for information that may reveal the identity of witnesses, complainants or informants or other information the Inspector General believes should not be made public (see 605 ILCS 10/8.5(e)(3)).
- c) The redacted summary report and documents to be made public shall be forwarded to the appropriate authority and the respondent. Each may offer, within 15 days, suggestions for redaction or provide a response that shall be made public with the summary report. The Inspector General has *the sole and final authority to decide what redactions should be made [605 ILCS 10/8.5(e)(3)].*
- d) After considering the suggestions for redaction, if any, the OIG shall reassess what should be made public and may post the summary report and response on the Authority's website.
- e) Summary reports that result in a 3 day suspension or greater or the termination of the employee shall be made public by presenting the report to the Board of the Authority and posting it on the Authority's website within 60 days after issuance of the summary report (see 605 ILCS 10/8.5(e)(3)).
- f) The Inspector General *may make available to the public any other summary report and any such responses or a redacted version of the report and responses [605 ILCS 10/8.5(e)(3)].* This includes any communications regarding requests for additional information and/or updates to responses between the OIG and the appropriate authority.

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**Section 3430.150 Bi-Annual Summary of Reports and Investigations**

*The Toll Highway Inspector General shall provide to the Governor, the Board of the Authority, and the General Assembly a summary of reports and investigations made under this Section no later than March 31 and September 30 of each year.*

- a) *The summaries shall detail the final disposition of the Inspector General's recommendations.*
- b) *The summaries shall not contain any confidential or identifying information concerning the subjects of the reports and investigations.*
- c) *The summaries shall also include detailed, recommended administrative actions and matters for consideration by the Governor, the Board of the Authority, and the General Assembly [605 ILCS 10/8.5(m)].*

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