

## ILLINOIS STATE POLICE DIRECTIVE PER-033, SEXUAL HARASSMENT

<b>RESCINDS:</b> PER-033, 2010-113, revised 11-22-2010.	<b>REVISED:</b> 05-07-2015 <b>2015-034</b>
<b>RELATED DOCUMENTS:</b> PER-009, PER-030, PER-032, PER-103, ROC-002	<b>RELATED CALEA STANDARDS:</b> 26.1.3, 26.1.4, 26.1.5, 26.1.8, 52.1.1, 52.1.2, 52.1.3, 52.2.2, 52.2.3, 52.2.4, 52.2.5

### I. POLICY

- I.A. The Illinois State Police (ISP) prohibits sexual harassment; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination.
- I.B. The ISP has determined the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under federal or state law. The ISP will act before the harassing conduct becomes so pervasive and offensive as to constitute unlawful sexual harassment.
- I.C. The ISP reaffirms its commitment to eliminate discrimination, harassment (including sexual harassment), and retaliation in employment situations by:
  - I.C.1. Empowering employees to resolve their concerns through the internal intake inquiry, alternative dispute resolution (ADR), limited review and investigation processes provided by the Equal Employment Opportunity (EEO) Office.
  - I.C.2. Making employees, supervisors, and managers aware of their rights and responsibilities under the ISP's EEO policies and procedures (see also ISP directives PER-009, "Equal Employment Opportunity," and PER-032, "Discrimination and Harassment").
- I.D. To ensure appropriate corrective measures are implemented where policy violations are identified, allegations of harassing conduct, discrimination, harassment, retaliation, or other violations of EEO policy will be addressed in accordance with the provisions of ISP directive PER-032 regardless of whether an employee wants to sign a Complaint Against Department Member form (CADMF).
- I.E. Pursuant to Executive Order Number 16 (1999) (see Addendum 1), the ISP adopts and implements the Governor's "Model Policy on Sexual Harassment" (see Addendum 2). This directive is intended to facilitate that implementation.

### II. AUTHORITY

- II.A. 775 ILCS 5/1, et seq., "Illinois Human Rights Act"
- II.B. 29 U.S.C. 626, et seq., "Age Discrimination in Employment Act"
- II.C. 42 U.S.C. 2000e, et seq., "Civil Rights Act of 1964"
- II.D. 42 U.S.C. 12101 et seq., "Americans with Disabilities Act"
- II.E. Title 56, Illinois Administrative Code, Part 2520 et seq., Procedures of the Department of Human Rights
- II.F. Illinois Executive Order Number 16 (1999), "Sexual Harassment in State Agencies"

## III. DEFINITIONS

**NOTE:** For additional definitions related to this directive, see PER-032.

- III.A. Allegation – a report of information related to a potential act of harassing conduct, discrimination, harassment, or retaliation in the workplace provided either in writing or orally to any supervisor or manager of the ISP, or to the EEO Office, but not including those reports made on a CADMF.
- III.B. Complaint – a report of harassing conduct, discrimination, harassment, or retaliation made on a CADMF.
- III.C. False or frivolous allegations or complaints – allegations or complaints in which the accuser is either being intentionally dishonest or misleading, or is using an EEO process to accomplish some end other than ending discrimination, harassment, or retaliation. It does not refer to allegations or complaints made in good faith that cannot be proven.
- III.D. Harassing Conduct – any conduct that may reasonably cause another person to feel offended, humiliated, intimidated, insulted, or ridiculed based on an impermissible factor that does not rise to the level of harassment (as defined in this directive).
- III.E. Harassment – a form of discrimination that is unlawful under Title VII of the U.S. Civil Rights Act and the Illinois Human Rights Act (IHRA) that includes:
  - III.E.1. Sexual Harassment - any unwelcome sexual conduct (as defined below) in the workplace when:
    - III.E.1.a. Sexual Quid Pro Quo Harassment
      - III.E.1.a.1) Submission to such conduct is, either explicitly or implicitly, a condition for receiving job benefits
      - III.E.1.a.2) Rejection of such conduct results in an adverse employment action
    - III.E.1.b. Sexual Hostile Work Environment Harassment
      - III.E.1.b.1) Such conduct is personally directed at a specific individual and is so severe or pervasive that it has the purpose or effect of unreasonably interfering with that individual's work performance or creates an intimidating, hostile, abusive, or offensive working environment.
      - III.E.1.b.2) Such conduct is not personally directed at anyone but is witnessed by employees within the workplace and is so severe or pervasive based upon such exposure that it has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, abusive, or offensive working environment.
  - III.E.2. Hostile Work Environment Harassment - any physical conduct or verbal or non-verbal communication in the workplace related to an impermissible factor that is unwelcome, uninvited, unreciprocated and usually, but not always, repeated and when such conduct is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, abusive, or offensive working environment.
  - III.E.3. Third Party Harassment – created when an individual witnesses harassment in his/her workplace and finds the conduct to be offensive, even if the conduct was not directed toward the person, but rather created a “hostile work environment” for the individual based upon his/her exposure to it.

**NOTE:** Normally the effect that conduct has on the work environment depends upon its pervasiveness over a period of time; however, a single incident of unwanted conduct may be sufficiently severe to be discrimination or harassment.

- III.F. Impermissible Factors – race; color; national origin; disability; sex/gender (including pregnancy, childbirth, and related medical conditions); sexual orientation; age; religion; creed; genetic information (including family medical history); marital, military (veteran), or order of protection status; or political affiliation or beliefs.
- III.G. Order of Protection Status – a person's status as being a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986 or the court of another state, but does not include those who are listed as a respondent to the order.
- III.H. Protected Activity – includes, but is not limited to, having:
  - III.H.1. Requested a reasonable accommodation pursuant to the Americans with Disabilities Act (ADA)
  - III.H.2. Reported discrimination, harassment, or retaliation to the ISP, the Illinois Department of Human Rights (IDHR), or the Equal Employment Opportunity Commission (EEOC)
  - III.H.3. Otherwise participated in the reasonable accommodation, intake inquiry, limited review, ADR, or investigation process
  - III.H.4. Otherwise opposed discriminatory practices when done lawfully and in accordance with ISP Policy
- III.I. Retaliation – any adverse employment action, reprisal, coercion, or intimidation (directly or indirectly) against a person who has previously or currently engaged in a protected activity when the action and protected activity are causally linked. Retaliation is a form of discrimination unlawful under Title VII of the U.S. Civil Rights Act and the IHRA and may include actions without legitimate business reason that would reasonably dissuade a person from making or supporting an EEO complaint or otherwise opposing discrimination.
- III.J. Sexual Conduct – physical conduct or verbal or non-verbal communication based on the characteristics of gender, marital or parental status, pregnancy, or family responsibilities (for example – indicating a casual, dating, romantic or sexual interest towards another by way of conversation, body language or brief physical contact regardless of whether such conduct is one-sided, reciprocated, or encouraged); or any sexual advances or requests for sexual favors. Reasonably offensive sexual conduct may include, but is not limited to:
  - III.J.1. Verbal - sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.
  - III.J.2. Non-Verbal - suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
  - III.J.3. Visual - posters, signs, pin-ups, or slogans of a sexual nature.
  - III.J.4. Physical - touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act, or actual assault.
- III.K. Unwelcome Conduct – behavior that, in the totality of circumstances, an employee does not solicit, but rather regards as undesirable or offensive, whether or not the employee has expressed objection to the behavior.
- III.L. Workplace – refers to any location where employees are engaged in work-related activities or are present as a condition or because of their employment. The workplace includes ISP occupied locations, and may include other locations when events at that location have an impact on the work environment of an employee.

## IV. RESPONSIBILITIES

**NOTE:** The ISP will respond to allegations of sexual harassment consistent with the procedures set forth in ISP directive PER-032. Actions taken will comply with the terms of the appropriate collective bargaining agreement when impacting collective bargaining unit members.

**NOTE:** Employees are encouraged to utilize the options set forth in EEO policy to resolve issues related to sexual harassment (see ISP directive PER-032 for specific procedures for addressing allegations and complaints). However, nothing in this directive prevents an employee from asserting their right to pursue a claim through other legally available means, including the IDHR and the EEOC. (See PER-032, Addendum 2, for contact information for these agencies.)

## IV.A. Employees

- IV.A.1. Employees are encouraged to act promptly when they perceive sexual harassment in the workplace. Employees desiring information, referrals, or clarification concerning issues of sexual harassment are encouraged to call the confidential ISP EEO Office telephone number - (800) 952-1217.
- IV.A.2. Employees who believe they are the victims of sexual harassment are encouraged to tell the initiating party that his/her actions are unwelcome and offensive. Where this is not practical, the employee shall notify his/her immediate supervisor.
  - IV.A.2.a. If the alleged harasser is the employee's immediate supervisor, the employee shall bypass the supervisor and notify the next level of management.
  - IV.A.2.b. If the employee is not comfortable reporting sexual harassment to his/her management, fears retaliation, or is not satisfied with the actions taken by his/her management, the employee shall notify the EEO Office.
- IV.A.3. Employees should make verbal or written reports of sexual harassment to the EEO Office within 45 calendar days of the date of the last alleged act purported to be a violation.
- IV.A.4. All employees will cooperate fully with the EEO Office or any other personnel conducting an intake inquiry, limited review, or investigation (see ISP directive PER-032 for additional responsibilities).
- IV.A.5. Making or filing a false or frivolous allegation or complaint can result in disciplinary action up to and including termination (see ISP directives ROC-002, "Rules of Conduct," and PER-103, "Code Employee Disciplinary Rules").
- IV.A.6. All employees will comply with the reporting and confidentiality requirements of ISP directive PER-032 with regard to allegations, complaints, and information relating to behavior that may reasonably be considered sexual harassment.
- IV.A.7. Employees desiring information, referrals, or clarification concerning issues of sexual harassment or sexual assault are encouraged to contact any one of the following:
  - IV.A.7.a. The confidential ISP EEO Office telephone number - (800) 952-1217
  - IV.A.7.b. IDHR - (312) 814-6200 or (800) 662-3942 (Request to speak with the "Counselor of the Day" or an "Intake Worker.")
  - IV.A.7.c. The 9to5 National Association of Working Women Sexual Harassment Hot Line - (800) 522-0925
  - IV.A.7.d. The nearest facility of the Illinois Coalition Against Sexual Assault (ICASA). Locations can be found at <https://www.icasa.org>.
  - IV.A.7.e. The National Sexual Assault Hotline operated by the Rape Abuse and Incest National Network (RAINN) at (800) 656-HOPE (4673)

IV.B. Supervisors and managers:

- IV.B.1. Will set the standard for acceptable behavior in the workplace and will refuse to tolerate any form of harassing conduct or sexual harassment.
- IV.B.2. Will ensure their actions are not reasonably offensive on the basis of sex, which includes the characteristics of gender, marital or parental status, pregnancy, or family responsibilities, and includes indicating a casual, dating, romantic or sexual interest towards another by way of conversation, body language or brief physical contact regardless of whether such conduct is one-sided, reciprocated, or encouraged.
- IV.B.3. Must make notification to the appropriate Colonel, the Division of Internal Investigation (DII) Area Commander, and the EEO Office within 24 hours of becoming aware of information regarding behavior that may reasonably be considered sexual harassment, regardless of how such information is obtained or whether the employee wants to make an allegation or complaint.
- IV.B.4. Will consult with the EEO Office prior to taking any action (other than the notifications described above) in response to allegations or complaints of sexual harassment.
- IV.B.5. Will fulfill the responsibilities described in ISP directive PER-032.
- IV.B.6. May notify and consult with the EEO Office by calling the ISP EEO Office Hotline at (800) 952-1217.
- IV.B.7. Will also comply with other applicable requirements of this directive. Failure to comply with the reporting and other responsibilities and procedures established in this directive and in ISP directive PER-032 may be considered in performance evaluations as well as other personnel actions, as determined by the Director.

IV.C. EEO Office

- IV.C.1. The EEO Office will fulfill its responsibilities and respond to all reports of sexual harassment consistent with the procedures described in ISP directive PER-032.
- IV.C.2. Where possible and in the best interests of the aggrieved party and the ISP, the EEO Office will facilitate the resolution of allegations and complaints of sexual harassment promptly and outside the investigative and disciplinary process.

IV.D. Confidentiality

All employees will observe strict confidentiality with respect to sexual harassment incidents and complaints. Information will be shared only with those who specifically need to have knowledge of the incident, allegation or complaint to achieve the objectives of EEO policies. (See ISP directive PER-032, for additional confidentiality requirements.)

| Indicates new or revised items.

**-End of Directive-**

**ILLINOIS STATE POLICE DIRECTIVE  
PER-033, SEXUAL HARASSMENT  
ADDENDUM 1, GOVERNOR'S EXECUTIVE ORDER NUMBER 16 (1999)**

<b>RESCINDS:</b> PER-033, 2010-113, revised 11-22-2010.	<b>REVISED:</b> 05-07-2015 <b>2015-034</b>
<b>RELATED DOCUMENTS:</b> PER-009, PER-030, PER-032	<b>RELATED CALEA STANDARDS:</b> 26.1.3, 26.1.4, 26.1.5, 26.1.8, 52.1.1, 52.1.2, 52.1.3, 52.2.2, 52.2.3, 52.2.4, 52.2.5

EXECUTIVE ORDER

NUMBER 16 (1999)

**SEXUAL HARASSMENT IN STATE AGENCIES**

WHEREAS, in 1980 Executive Order No. 1, entitled "Sexual Harassment," declared that all state employees have the right to work in an environment free of sexual harassment, provided a descriptive definition of sexual harassment and directed various actions by agencies to provide training, disseminate information and prevent sexual harassment from occurring; and

WHEREAS, in 1992 Executive Order No. 7, entitled "Sexual Harassment in State Agencies," recognized the continuing impact and cost of sexual harassment in the workplace, streamlined the definition of harassment and promulgated a detailed and comprehensive policy for all state Departments, Agencies, Boards and Commissions to adopt; and

WHEREAS, in the years following the issuance of these Executive Orders, court decisions and changes in rules and laws, especially a series of United States Supreme Court rulings, have resulted in an expansion of the laws to protect both men and women from sexual harassment; further clarification of what constitutes sexual harassment, and a significant redefinition of the standards for employer liability for sexual harassment by supervisors; and

WHEREAS, these recent decisions impose near absolute or strict liability upon an employer when sexual harassment by a supervisor is established and results in tangible adverse employment action (a significant change in employment status such as demotion, significant change in benefits, failure to promote or termination) and also make it clear that an employer may be liable for sexual harassment by a supervisor that results in a hostile work environment, regardless of whether the employer had knowledge or should have had knowledge of the harassment; and

WHEREAS, in hostile work environment claims that result from harassment by a supervisor but do not result in a tangible adverse employment action, employers may rely upon a fair, effective and vigorously implemented sexual harassment policy as an affirmative defense where a person making such allegations has not taken advantage of remedies afforded by readily accessible procedures for reporting, investigating and remediating such charges; and

WHEREAS, in the absence of a well defined, readily accessible and effective policy for dealing with sexual harassment charges, an employer's exposure to liability is greatly increased; and

WHEREAS, these recent developments in the law further reinforce the need for employers to undertake all reasonable efforts to prevent and promptly respond to and remedy sexual harassment by co-workers; and

WHEREAS, regardless of liability issues, it is essential that agency directors and senior managers clearly indicate to all levels of supervisors and employees that sexual harassment results in the costly and harmful loss of efficiency and productivity and does serious damage to the morale and well being of the agency's workforce and will not be tolerated;

THEREFORE, in order to assure, insofar as possible, the provisions of a work environment free of sexual harassment and that a clear, consistent, firm and up-to-date policy dealing with sexual harassment is applied throughout the agencies of state government, I hereby order pursuant to the authority vested in my by Article V, Section 8 of the Illinois Constitution the following:

1. The head of each department, agency, board or commission under the jurisdiction of the Governor shall adopt and implement the attached Model Policy on Sexual Harassment. Among other provisions the policy describes

the state and federal laws which make sexual harassment illegal and the consequences of violating those laws; defines sexual harassment using examples; and sets forth options available to an employee for bringing a complaint within the agency and with outside agencies; and finally, provides for measures to prevent retaliation against an employee for making a complaint.

2. Each such head of a department, agency, board or commission shall assure that the Policy is disseminated to each employee under its jurisdiction.
3. The Departments of Human Rights and Central Management Services shall review the Model Policy on Sexual Harassment at least annually and make recommendations for changes to the Governor as needed to reflect the continuing evolution of sexual harassment laws, rules and case law as well as to increase the effectiveness of the Policy.
4. The Departments of Human Rights and Central Management Services shall establish comprehensive training programs for EEO Officers, supervisors and new employees which will (a) explain the Policy and the recourse available to employees who feel they have been subject to harassment, and (b) address the need for a speedy and thorough response to any complaint, report or observation relating to sexual harassment in the workplace including sensitivity training, investigative methods, confidentiality and ranges of disciplinary action.
5. The Department of Central Management Services shall make itself available on an ongoing basis to assist and advise departments, agencies, boards and commissions in internal investigations of alleged instances of sexual harassment and in matters of disciplinary actions.

This Order shall not be construed to abridge or expand the rights of any person under the constitutions or statutes of the United States or of this State.

Executive Order Number 7 (1992) is hereby repealed.

This Order shall be effective immediately.

/s/ \_\_\_\_\_  
GEORGE H. RYAN  
Governor

November 5, 1999

**-End of Addendum-**

**ILLINOIS STATE POLICE DIRECTIVE  
PER-033, SEXUAL HARASSMENT  
ADDENDUM 2, GOVERNOR'S MODEL POLICY ON SEXUAL HARASSMENT**

<b>RESCINDS:</b> PER-033, 2010-113, revised 11-22-2010.	<b>REVISED:</b> 05-07-2015 <b>2015-034</b>
<b>RELATED DOCUMENTS:</b> PER-009, PER-030, PER-032	<b>RELATED CALEA STANDARDS:</b> 26.1.3, 26.1.4, 26.1.5, 26.1.8, 52.1.1, 52.1.2, 52.1.3, 52.2.2, 52.2.3, 52.2.4, 52.2.5

Revised 1999

**MODEL POLICY  
SEXUAL HARASSMENT**

It is the responsibility of each individual employee to refrain from sexual harassment, and, it is the right of each individual employee to work in an environment free from sexual harassment.

**DEFINITION OF SEXUAL HARASSMENT**

According to the Illinois Human Rights Act, sexual harassment is defined as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991.

One such example is a case where an individual is terminated by a supervisor or is denied employment opportunities and benefits after rejecting the supervisor's sexual advances or request(s) for sexual favors. Another example is where an individual is subjected to conduct by co-workers because of his or her gender which makes it difficult for the employee to perform his or her job.

Other conduct, which may constitute sexual harassment, includes:

- **Verbal:** Sexual innuendos, suggestive comments, insults, humor, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.
- **Non-Verbal:** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- **Visual:** Posters, signs, pin-ups or slogans of a sexual nature.
- **Physical:** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act, or actual assault.

While the most commonly recognized forms of sexual harassment involve the types of conduct described above, non-sexual conduct can also constitute a violation of the applicable laws when that conduct is directed at the victim because of his or her gender (for example, a female employee who reports to work every day and finds her tools



stolen, her work station filled with trash and her equipment disabled by her male co-workers because they resent having to work with a woman).

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable person."

For this reason, every supervisor and employee must remember that seemingly "harmless" and subtle actions may lead to sexual harassment complaints. The use of terms such as "honey", "darling" and "sweetheart" is objectionable to many women who believe that these terms undermine their authority and their ability to deal with men on an equal and professional level. And while use of these terms by an individual with authority over a female employee will rarely constitute an adverse employment action, it may lead to the creation of a hostile work environment.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three statements that might be made about the appearance of a woman in the workplace:

- "That's an attractive dress you have on."
- "That's an attractive dress. It really looks good on you."
- "That's an attractive dress. You really fill it out well."

The first statement appears to be simply a compliment. The last is the most likely to be perceived as sexual harassment, depending on individual perceptions and values. To avoid the possibility of offending an employee, it is best to follow a course of conduct above reproach, or to err on the side of caution.

Sexual harassment is unacceptable misconduct, which affects both genders. Sexual harassment will often involve a man's conduct directed at a woman. However, it can also involve a woman harassing a man or harassment between members of the same gender.

#### **RESPONSIBILITY OF INDIVIDUAL EMPLOYEES**

Each individual employee has the responsibility to refrain from sexual harassment in the workplace.

Any individual employee who sexually harasses a fellow worker is, of course, liable for his or her individual conduct.

The harassing employee will be subject to disciplinary action up to and including discharge in accordance with departmental policy or a collective bargaining agreement, as appropriate.

#### **RESPONSIBILITY OF SUPERVISORY PERSONNEL**

Each supervisor is responsible for maintaining the workplace free of sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as with all other forms of employee misconduct. It must be remembered that supervisors are the first line of defense against sexual harassment. By setting the right example, a supervisor may discourage his or her employees from acting inappropriately. In addition, supervisors will often be the first to spot objectionable conduct or the first to receive a complaint about conduct which he or she did not observe.

The courts and the Illinois Human Rights Commission have found that organizations as well as supervisors can be held liable for damages related to sexual harassment by a manager, supervisor, employee, or third party (an individual who is not an employee but does business with an organization, such as a contractor, customer, sales representative, or repair person).

Liability is either based on an organization's responsibility to maintain a certain level of order and discipline among employees, or on the supervisor, acting as an agent of the organization. It should be noted that recent United States Supreme Court cases involving sexual harassment claims against supervisors have made the employer's liability for supervisor's actions even more strict. Therefore, supervisors must understand that their adherence to this policy is vitally important, both with regard to their responsibility to maintain a work environment free of harassment and, even more importantly, with regard to their own individual conduct. The law continues to require employers to remain vigilant and effectively remedy sexually harassing conduct perpetrated by individual(s) on their co-workers. Supervisors must act quickly and responsibly not only to minimize their own liability but also that of the agency.

Specifically, a supervisor must address an observed incident of sexual harassment or a complaint, with equal seriousness, report it, take prompt action to investigate it, implement appropriate disciplinary action, take all necessary steps to eliminate the harassment and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint.

In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

An agency's Equal Employment Opportunity (EEO) Officer is available to consult with supervisors on the proper procedures to follow.

### **PROCEDURES FOR FILING A COMPLAINT**

An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the offending employee, her/his supervisor and the agency EEO Officer. It is not necessary for sexual harassment to be directed at the person making a complaint.

The following steps may also be taken: document or record each incident (what was said or done, the date, the time, and the place). Documentation can be strengthened by written records such as letters, notes, memos, and telephone messages.

All charges, including anonymous complaints, will be accepted and investigated regardless of how the matter comes to the attention of the agency. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

No one making a complaint will be retaliated against even if a complaint made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

Proper responses to conduct which is believed to be sexual harassment may include the following:

**Direct Communication.** If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.

**Contact With Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor or the EEO Officer. If the harasser is the immediate supervisor, the problem should be reported to the next level of supervision or the EEO Officer. However, the employee experiencing what he or she believes to be sexual harassment must not assume that the employer is aware of this conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, it is likely the employer will be presumed not to have knowledge of the harassment.

**Formal Written Complaint.** An employee may also report incidents of sexual harassment directly to the EEO Officer. The EEO Officer will counsel the reporting employee and be available to assist with filing a formal complaint. The Department will fully investigate the complaint, and advise the complainant and the alleged harasser of the results of the investigation.

**Resolution Outside Department.** Every department, agency, board and commission has adopted a comprehensive anti-harassment policy. The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every complaint and incident so that problems can be identified and remedied internally. However, an employee has the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) about filing a formal complaint. An IDHR complaint must be filed within 180 days of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within 300 days. Where the employing entity has an effective sexual harassment policy in place and the

complaining employee fails to take advantage of that policy and allow the employer an opportunity to address the problem, such an employee may, in certain cases, lose the right to further pursue the claim against the employer.

An employee who is suddenly transferred to a lower paying job or passed over for promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge, also due within 180 days (IDHR) or 300 days (EEOC) of the alleged retaliation.

An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges, such as assault or battery.

**FALSE AND FRIVOLOUS COMPLAINTS**

False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.

**-End of Addendum-**