

ILLINOIS STATE POLICE DIRECTIVE PER-009, EQUAL EMPLOYMENT OPPORTUNITY

RESCINDS: PER-009, 2015-033, revised 05-07-2015.	REVISED: 10-24-2017 2015-033A
RELATED DOCUMENTS: PER-032, PER-033	RELATED CALEA STANDARDS: 26.1.3, 31.1.1, 31.2.1, 31.2.3, 31.3.2

I. POLICY

The Illinois State Police (ISP) will:

- I.A. Ensure equal employment opportunity for employees and applicants in all personnel actions without discrimination because of race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital, military (veteran), or order of protection status. Personnel actions include, but are not limited to, examination, appointment, transfer, assignment, training, recruitment, promotion, retention, and discipline.
- I.B. As required by the Illinois Human Rights Act (IHRA), maintain a full-time Equal Employment Opportunity (EEO) Officer/Program Manager who reports to the Director, an Office of Equal Employment Opportunity, and annually review and update an Equal Employment Opportunity Plan.
- I.C. Maintain a Diversity Advisory Council (DAC) to increase awareness and sensitivity regarding diversity issues and assist with the recruitment and maintenance of a diverse workforce.
- I.D. Conduct an aggressive recruitment program to ensure equal access to the Department's hiring and selection process.
- I.E. Encourage all employees, including women, minorities, and the disabled, to aspire to higher level positions and assist them in acquiring qualifications for advancement.
- I.F. Provide reasonable accommodations for qualified individuals with a disability pursuant to the Americans with Disabilities Act (ADA).
- I.G. Ensure personnel actions, including but not limited to, examination, appointment, transfer, assignment, training, recruitment, promotion, retention, and discipline are in compliance with state and federal law, rules, and administrative codes.
- I.H. Recognize harassment related to an impermissible factor as a form of discrimination and, by treating it as misconduct, act to end harassing conduct before it becomes so pervasive and offensive as to be actionable under federal or state law.
- I.I. Ensure employees who, in keeping with ISP directives, oppose unlawful employment practices are free from retaliation.
- I.J. Reaffirm its commitment to eliminate discrimination, harassment, and retaliation in employment situations by empowering employees to resolve their concerns through:
 - I.J.1. The internal intake inquiry
 - I.J.2. Alternative dispute resolution (ADR)
 - I.J.3. Limited review and investigation processes provided by the EEO Office
 - I.J.4. Making employees, supervisors, and managers aware of their rights and responsibilities under the ISP's EEO policies and procedures (see ISP Directives PER-032, "Discrimination and Harassment" and PER-033, "Sexual Harassment")
- I.K. Ensure managers and supervisors recognize their responsibility for carrying out the spirit and intent of the EEO Program, including but not limited to the EEO Plan, and actively working to advance the program among the employees they supervise.

I.L. Failure to comply with the policy and procedures established herein will be considered in employee performance evaluations as well as other personnel actions as determined by the Director.

NOTE: This policy does not prohibit the ISP from making lawful employment decisions to treat employees differently from one another for legitimate reasons.

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. 12101, et seq., "Americans with Disabilities Act"

II.D. 42 U.S.C. 2000e, et seq., "Civil Rights Act of 1964"

II.E. Title 56, Part 2520, et seq., of the Illinois Administrative Code, Procedures of the Illinois Department of Human Rights

II.F. Illinois Executive Order Number 16 (1999), "Sexual Harassment in State Agencies"

III. DEFINITIONS

NOTE: Refer to ISP directives PER-032 and PER-033 for definitions of other terms related to EEO policies.

III.A. Adverse Employment Action - any action resulting in material harm, a tangible negative effect, or an unfavorable employment decision; or any action that would reasonably discourage an employee from reporting harassing conduct, discrimination, harassment, or retaliation in the future.

III.B. Alternative Dispute Resolution – a voluntary process by which an allegation or complaint of harassing conduct, discrimination, harassment, or retaliation may be resolved, preferably prior to any formal internal or external complaint, investigative, or disciplinary processes. ADR includes, but is not limited to, mediation.

NOTE: For the purposes of this policy, ADR is not an investigation or part of the Misconduct Allegation Settlement Agreement (MASA) process and is not subject to the requirements of ISP directive PER-030, "Complaint and Disciplinary Investigations."

III.C. Discrimination – an adverse employment action based on an impermissible factor.

III.D. Equal Employment Opportunity - all persons shall have an equal chance in employment and its benefits based solely on qualifications and abilities and work in an environment free from discrimination, harassment (including sexual harassment), and retaliation.

III.E. Equal Employment Opportunity Plan - an active plan following the guidelines of the Illinois Department of Human Rights with specific goals and objectives to ensure hiring, promotions, and access to opportunities have not been denied due to an impermissible factor. The EEO Plan is filed in the EEO Office.

III.F. Equal Employment Opportunity Program - a program to ensure equal opportunities in employment and eliminate discrimination, harassment (including sexual harassment), and retaliation from the work environment.

III.G. Harassing Conduct – any conduct that may reasonably cause another person to feel offended, humiliated, intimidated, insulted, or ridiculed based on an impermissible factor which does not rise to the level of harassment (as defined in this directive).

III.H. Harassment – a form of discrimination that is unlawful under Title VII of the U.S. Civil Rights Act and the IHRA, which includes:

III.H.1. Sexual Harassment - any unwelcome sexual conduct (as defined below) in the workplace when:

III.H.1.a. Sexual Quid Pro Quo Harassment

III.H.1.a.1) Submission to such conduct is, either explicitly or implicitly, a condition for receiving job benefits

III.H.1.a.2) Rejection of such conduct results in an adverse employment action

III.H.1.b. Sexual Hostile Work Environment Harassment

III.H.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.H.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.H.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.H.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.I. Impermissible Factor – means 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); order of protection status; or political affiliation or beliefs.

III.J. Intake Inquiry– an examination conducted by the EEO office in an attempt to facilitate a prompt resolution to an allegation.

III.J.1. An intake inquiry includes, but is not limited to, obtaining information, identifying the issues in dispute, ascertaining the positions of the parties, and exploring the possibility of a resolution.

III.J.2. An intake inquiry generally will be the first step for resolving allegations of EEO policy violations. For the purposes of this policy, an intake inquiry is not an investigation and is not subject to the requirements of ISP Directive PER-030.

III.K. Investigation – a formal inquiry conducted in accordance with ISP Directive PER-030 and/or this directive in response to a complaint of harassing conduct, discrimination, harassment, or retaliation.

III.L. Limited Review – an examination conducted by the EEO office regarding concerns about harassing conduct, discrimination, harassment, or retaliation at the discretion of the Director prior to the receipt of a Complaint Against Department Member form (CADMF), ISP 3-23 (available in the ISP Document

Library at <http://maphome/documentlibrary/> or via the internet at <http://www.isp.state.il.us/services/citizencomplaint.cfm>). For the purposes of this policy, a limited review is not an investigation and is not subject to the requirements of ISP Directive PER-030.

- III.M. Mediation – a voluntary process facilitated by persons unrelated to the issue whereby the aggrieved party and the respondent meet in an attempt to resolve certain discrimination, harassment, or retaliation allegations or complaints. Mediation is a form of ADR and is coordinated by the EEO Office.
- III.N. Protected Activity – includes, but is not limited to, having:
 - III.N.1. Requested a reasonable accommodation pursuant to the ADA
 - III.N.2. Reported harassing conduct, discrimination, harassment, or retaliation to the ISP, Illinois Department of Human Rights (IDHR), or Equal Employment Opportunity Commission (EEOC)
 - III.N.3. Otherwise participated in the reasonable accommodation, intake inquiry, limited review, ADR, or investigation process
 - III.N.4. Otherwise opposed discriminatory practices when done lawfully and in accordance with ISP policy
- III.O. 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.

IV. RESPONSIBILITIES

- IV.A. Employees will:
 - IV.A.1. Encourage and assist qualified candidates to apply for employment or seek advancement with the Department.
 - IV.A.2. Comply with the procedures and requirements of the Department's rules, regulations, and directives related to equal employment opportunity.
 - IV.A.3. Refer to ISP Directives PER-032 and PER-033 for specific definitions, responsibilities, and procedures related to discrimination, harassment (including sexual harassment) and retaliation.
- IV.B. Colonels and their subordinate supervisors and managers will:
 - IV.B.1. Carry out the spirit and intent of the EEO Program, including but not limited to the EEO Plan, and actively work to advance the program among the employees they supervise.
 - IV.B.2. Ensure their subordinates have access to department EEO policies and are aware of their rights, responsibilities, and the process for resolving allegations and complaints related to EEO policies.
 - IV.B.3. Ensure they and their subordinates comply with all department EEO policies and procedures.
 - IV.B.4. Ensure that newly hired subordinates receive training in EEO policy coordinated through the EEO Office.
 - IV.B.5. Ensure decisions regarding recruitment, hiring, training, promotion, layoff, transfer, assignment, and awarding of benefits will be made following the principles and practices of EEO and without regard to an impermissible factor.

- IV.B.6. Upon request, distribute information outlining career opportunities, application procedures, and any other pertinent information relating to employment within the Department.
- IV.B.7. Ensure each individual work unit conducting recruitment and selection activities maintains complete records of such activities including, but not limited to, a list of applicants and the selection or rejection decision.
- IV.B.8. Make a specific effort to encourage employees to aspire to higher level positions and provide guidance in their efforts to acquire the necessary qualifications needed for advancement (as per the CMS Upward Mobility Program and 5 ILCS 390/1, et seq., the "Supported Employees Act").
- IV.B.9. Report, investigate, and take corrective action with regard to alleged instances of harassing conduct, discrimination, harassment (including sexual harassment), and retaliation in accordance with state and federal laws and applicable department policies and procedures.
- IV.B.10. Ensure the EEO Office is notified of any external reporting required of any division, work unit, or employee related to equal employment opportunity policies, demographic statistics, or specific allegations or complaints.
 - IV.B.10.a. Any questions received in any form, including by phone or mail, concerning the EEO Plan must be forwarded to the EEO Office; any information disseminated must receive prior approval from the EEO Office.
 - IV.B.10.b. Only the ISP Legal Office will respond to requests for information related to an external complaint.
- IV.B.11. Ensure approval is received from the EEO Program Manager prior to the publishing or distribution of material under the label of EEO.
- IV.C. The EEO Program Manager will:
 - IV.C.1. Advise the Director with respect to EEO programs, policies, procedures, regulations, reports, and the agency's EEO Plan.
 - IV.C.2. Establish a defensible EEO Plan in accordance with the guidelines of the IDHR and applicable law.
 - IV.C.3. Design and implement internal audits and reporting systems, as needed, for measuring the effectiveness of agency EEO programs, indicating need for remedial action, and determining the degree to which the agency's goals and objectives have been attained.
 - IV.C.4. Evaluate the sufficiency of, and recommend improvement to, the EEO Plan and EEO programs, including recruiting, qualifications, hiring, promotion, and other employment policies, procedures, or practices, and report to the Director at least semiannually and upon request.
 - IV.C.4.a. Report to the Director and the IDHR any policies, practices or qualifications that have an unequal impact by race, national origin (as required by IDHR rule), sex, or disability (or any other category that the IDHR may require by rule), or otherwise are inconsistent with state or federal law related to equal employment opportunity.
 - IV.C.4.b. Notify the Director and the IDHR when unable to resolve employment practices or conditions that may adversely impact persons on the basis of an impermissible factor.
 - IV.C.4.c. Make changes in recruiting, qualifications, hiring, promotion, and other employment policies, or procedures to eliminate discriminatory practices.
 - IV.C.4.d. Report to the Director and the IDHR on the progress of actions taken.
 - IV.C.5. Serve as a liaison between the ISP and minority, women's, and disability organizations and assist in the recruitment of people in underrepresented classifications.

- IV.C.6. With the assistance of the ISP Legal Office and the Office of Labor Relations and Special Projects, inquire, investigate, respond to, and/or monitor allegations and complaints of unlawful discrimination, harassment (including sexual harassment), retaliation, or requests for ADA reasonable accommodation, in accordance with state and federal laws and applicable department policies and procedures.
 - IV.C.6.a. Make an aggrieved employee or applicant aware of his or her remedies under the IHRA.
 - IV.C.6.b. Serve as liaison between the ISP and external EEO enforcement authorities.
 - IV.C.6.c. Recommend appropriate actions to eliminate and remedy discriminatory practices.
 - IV.C.6.d. Recommend remedial or disciplinary action with respect to managerial or supervisory employees who have failed to cooperate fully with the EEO Plan or are in violation of EEO policies (ISP Directives PER-009, "Equal Employment Opportunity;" PER-032, "Discrimination and Harassment;" PER-033, "Sexual Harassment;" PER-103, "Code Employees Disciplinary Rules;" and ROC-002, "Rules of Conduct").
- IV.C.7. Report to the Director and set such rules and regulations as are necessary for the satisfactory administration of the official responsibilities of the EEO Office.
- IV.D. The DAC will:
 - IV.D.1. Establish procedures and rules that maintain the efficient and effective operation of the DAC, and will:
 - IV.D.1.a. Identify groups from which voting and non-voting/advisory representative members will be selected
 - IV.D.1.b. Recruit and select members of the DAC
 - IV.D.1.c. Meet quarterly to conduct DAC business
 - IV.D.1.d. Review issues and suggestions brought to the DAC
 - IV.D.1.e. Make recommendations to the Director and Colonels regarding issues related to maintaining a highly qualified and diverse workforce
 - IV.D.1.f. Maintain records of DAC activities

| Indicates new or revised items.

-End of Directive-