

**STATE OF ILLINOIS
ILLINOIS STATE POLICE MERIT BOARD**

RECEIVED

OCT 26 2017

**ILLINOIS STATE POLICE
MERIT BOARD**

IN THE MATTER OF:

LIEUTENANT KEVIN WINSLOW

I.D. No. 5127

13 Ponderosa Drive

Colona, Illinois 61241

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Illinois State Police

Merit Board No.

COMPLAINT

NOW COMES Leo Schmitz, Director of the Illinois State Police, and pursuant to 20 ILCS 2610/14 and 80 Ill. Admin. Code § 150.575 states as follows:

1. Kevin Winslow ("Respondent") is employed as a State Police Officer by the Illinois State Police ("ISP" or "Department") and holds the rank of Lieutenant. In April 2017, Respondent was assigned to Zone 2. His supervisory duties as a Lieutenant in Zone 2 included oversight of several narcotics enforcement groups, including the Quad City Metropolitan Enforcement Group ("Quad City MEG"). Respondent has been employed by the Department since October 10, 1999.
2. On November 29, 2012, Respondent completed the Department's EEO Matters: Sexual Harassment training. On January 3, 2017, Respondent completed the Department's 2016 Equal Employment Opportunity Supervisory Employee Training. As a Lieutenant for the Department, Respondent was aware or should have been aware that ISP policy prohibits sex discrimination, sexual harassment, and harassing conduct, as explained in detail below in Count II of this Complaint.
3. Respondent attended the 2017 Illinois Drug Enforcement Officers Association (IDEOA) Conference in East Peoria, Illinois, which was held April 19-21, 2017.

4. The IDEOA is an association composed of sworn law enforcement officers whose primary responsibility is the enforcement of narcotics laws in the State of Illinois. The IDEOA is governed by a Board consisting of supervisors from the Illinois State Police, Chicago Police Department, Lake County Metropolitan Enforcement Group, DuPage County Metropolitan Enforcement Group, Joliet Metropolitan Area Narcotics Squad, Cook County Sheriff's Police, and the United States Drug Enforcement Administration. In April 2017, Respondent served as the President of the IDEOA's Executive Board.
5. Respondent participated in the conference in his capacity both as an ISP Lieutenant and as IDEOA President. It was Respondent's job to run the three-day IDEOA conference.
6. On the afternoon of Wednesday, April 19, 2017, around the conclusion of the main speaker's presentation, Respondent encountered Trooper Samantha Kromm near the exit of the conference center.
7. Respondent had previously met Trooper Kromm working at a drug interdiction detail in 2014 or 2015. Respondent had no personal relationship with Trooper Kromm.
8. Respondent informed Trooper Kromm that there were already many officers drinking in Respondent's hotel suite. During the last few IDEOA conferences, Respondent permitted attendees to come to his hotel suite to socialize and have drinks, and Respondent provided snacks.
9. In the hotel suite, Respondent, Trooper Kromm, and a group of officers took a shot of liquor together. Respondent also consumed a rum and coke. Respondent then exited the room, where Trooper Kromm continued to socialize with the other officers.

10. Prior to the scheduled 5 p.m. conference social hour, Respondent took a half a tablet of Tramadol, an opioid used to treat moderate to severe pain, for his back injury and a dose of Wellbutrin.
11. Respondent then attended the scheduled social hour, during which he drank two or three beers.
12. Respondent and officers from several jurisdictions went to the Pitch karaoke bar in Peoria. At Pitch, Respondent consumed more than five but less than ten additional alcoholic beverages.
13. While at Pitch, Respondent exchanged text messages with Trooper Kromm using his work cellular phone. The phone was issued to him by Quad City MEG, a narcotics enforcement group comprised of officers from ISP and other jurisdictions, and over which Respondent has oversight duties as an ISP Lieutenant.
14. Respondent texted to Trooper Kromm, "Go to pitch and dump ur chaperone[.]"
15. At approximately 9:17 p.m., Respondent texted to Trooper Kromm from his work phone, "Get ur ass here Or I'll spank it[.]"
16. Trooper Kromm arrived at Pitch around 10:00 p.m.
17. Respondent approached Trooper Kromm's table, and they conversed for a few minutes.
18. In the presence of bar patrons, including police officers from ISP and other jurisdictions, Respondent made squeezing motions with his hand in front of Trooper Kromm's breasts.
19. Respondent then made physical contact and groped Trooper Kromm's breast without her consent.
20. Trooper Kromm appeared wide-eyed and shocked and felt humiliated and angry.

21. Respondent grabbed Trooper Kromm's nearby beer bottle and spit into it, making a gesture with his tongue. Witnesses described the gesture as either licking or sticking his tongue into the beer bottle.
22. Respondent then said something to the effect of "so that's what bitch tastes like[.]" and walked away.
23. Later that night, Respondent used his work phone to text to Trooper Kromm, "Wow even ur voicemail sounds ADD Ok. Cya later Whatever chicken shit Lol[.]"
24. On Thursday, April 20, 2017, around 11:02 a.m., Respondent used his work phone to text to Trooper Kromm: "Did you just text or call me. My phone is fucking up. It's pissing me off[.]"
25. Trooper Kromm texted back: "Nope Did u want me to[?]"
26. Respondent responded "No that's ok. Fucking phone is about ready to die or something. Doing weird shit."
27. On June 20, 2017, agents from the Department's Division of Internal Investigation (DII) conducted an administrative interview of Respondent in the presence of his attorney after giving Respondent notice of the allegations under investigation and his administrative rights. During his administrative interview, when asked whether he recalls grabbing Trooper Kromm's breast, among other statements, Respondent admitted his "intoxication level was obviously to the point to where I don't remember that. So I'm not denying that I did it. I just don't recall it, and I don't recall why I did it, if I did it." *See* Tr., p. 38.
28. Respondent does recall spitting into a beer bottle while at Trooper Kromm's table. *See* Tr., pp. 33-34.

COUNT I

VIOLATION OF STATE LAW – BATTERY

29. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
30. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.1., which states:
- “Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.”
- (First Offense – Level 4 Misconduct).”
31. Respondent violated this rule by failing to obey state law when he committed the offense of Battery, in violation of 720 ILCS 5/12-3, a Class A misdemeanor, in that on or about April 19, 2017, he knowingly made physical contact of an insulting or provoking nature with Trooper Kromm by grabbing her breast without consent.

COUNT II

ENGAGING IN CONDUCT IN VIOLATION OF DISCRIMINATION AND HARASSMENT AND SEXUAL HARASSMENT POLICIES

32. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
33. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.64., which states:
- “Officers will not engage in conduct that is in violation of the policies and procedures established in directives PER-009, “Equal Employment Opportunity,”

PER-032, “Discrimination and Harassment,” or PER-033, “Sexual Harassment.”
(First Offense – Level 4 Misconduct).

34. PER-032, “Discrimination and Harassment,” Paragraph I.A., provides:

“The Illinois State Police (ISP) prohibits discrimination in all forms, including but not limited to harassment, and retaliation; such acts are unlawful and will serve as the basis for disciplinary action up to and including termination.”

35. PER-032, “Discrimination and Harassment,” Paragraph I.B., provides:

“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 harassment.”

36. PER-032, “Discrimination and Harassment,” Paragraph IV.B.1., provides:

“Supervisors and managers:...[w]ill set the standard for acceptable behavior in the workplace. They will ensure their actions are not reasonably offensive based on an impermissible factor regardless of whether an allegation or complaint is received regarding such conduct, and will refuse to tolerate any form of harassing conduct, discrimination, harassment, or retaliation.”

37. PER-033, “Sexual Harassment,” Paragraph I.A., provides:

“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.”

38. PER-033, "Sexual Harassment," Paragraph I.B., provides:

"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."

39. PER-033, "Sexual Harassment," Paragraph IV.B.1., provides:

"Supervisors and managers: ...[w]ill set the standard for acceptable behavior in the workplace and will refuse to tolerate any form of harassing conduct or sexual harassment."

40. PER-033, "Sexual Harassment," Paragraph IV.B.2., provides:

"Supervisors and managers: ...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."

41. Respondent violated ROC-002, Rules of Conduct, Paragraph III.A.64., by engaging in harassing conduct in violation of ISP Directive PER-032, Discrimination and Harassment, and ISP Directive PER-033, Sexual Harassment, when on or about April 19, 2017, he sent Trooper Kromm a text message reading, "get ur ass here or I'll spank it," and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand,

tongue and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like.”

COUNT III

CONSUMING ALCOHOLIC BEVERAGES TO THE EXTENT THAT IT RESULTS IN IMPAIRMENT, INTOXICATION, OR OBNOXIOUS OR OFFENSIVE BEHAVIOR

42. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
43. All or a portion of the facts set forth herein constitute Respondent’s violation of Departmental Directive ROC-002, Rules of Conduct, Paragraph III.A.47.g, which states:
- “Officers will not...consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty.”
- (First Offense – Level 3 Misconduct).
44. Respondent violated this rule when he consumed alcoholic beverages while off-duty to the extent that it resulted in obnoxious or offensive behavior that discredited himself and the Department, when on or about April 19, 2017, Lieutenant Winslow sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue, and/or a beer bottle and said something to the effect of “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at The Pitch bar.

COUNT IV

MISUSE OF DEPARTMENT EQUIPMENT

45. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
46. All or a portion of the facts set forth herein constitute Respondent's violation of Departmental Directive ROC-002, Rules of Conduct, Paragraph III.A.38., which states:

"Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order."

(First Offense – Level 1 Misconduct).

47. Respondent violated this rule in that he did not utilize Department equipment for its intended purpose, when he used his cellular phone provided by Quad City MEG for departmental use, to send a text message to Trooper Kromm reading, "get ur ass here or I'll spank it."

COUNT V

CONDUCT UNBECOMING AN OFFICER

48. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
49. All or a portion of the facts set forth herein constitute Respondent's violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.A.7., which states:

“Officers will conduct themselves on and off duty in such a manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.”

(First Offense – Level 1 Misconduct).

50. Lieutenant Winslow engaged in conduct that discredited the integrity of the Department and its employees and impaired the operations of the Department, when on or about April 19, 2017, he sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed the breast of Trooper Kromm, made crude gestures with his hand, tongue and/or a beer bottle and said something to the effect of, “so that’s what bitch tastes like,” in the presence of other officers and bar patrons at the Pitch bar.

COUNT VI

VIOLATION OF RULES AND REGULATIONS FOR SUPERVISORY PERSONNEL

51. All preceding paragraphs of this Complaint are incorporated as if restated fully herein.
52. All or a portion of the facts set forth herein constitute Respondent’s violation of Department Directive ROC-002, Rules of Conduct, Paragraph III.B.2., which states:
- “Supervisors are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and example to ensure the efficiency of Department operations.”
53. Lieutenant Winslow failed to provide leadership, supervision, and example, to ensure the efficiency of Department operations when on or about April 19, 2017, he sent Trooper Kromm a text message reading, “get ur ass here or I’ll spank it,” and when he grabbed

the breast of Trooper Kromm, made crude gestures with his hand, tongue, and/or a beer bottle and said something to the effect of, "so that's what bitch tastes like," in the presence of other officers and bar patrons at The Pitch bar.

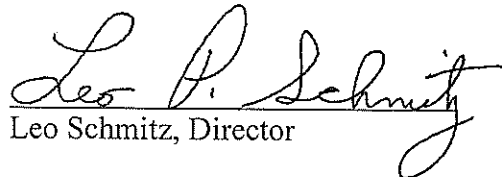
CERTIFICATION

Copies of Illinois State Police Department Directives ROC-002, Rules of Conduct (Ex. A), PER-032, Discrimination and Harassment (Ex. B), and PER-033, Sexual Harassment (Ex. C), are attached and are certified by the Director as accurate, complete, and in full force and effect at the time the aforementioned acts were committed.

CONCLUSION

WHEREFORE, by reason of these facts and charges, I request the Illinois State Police Merit Board conduct a hearing in this matter and suspend Respondent from employment with the Illinois State Police for a period in excess of thirty (30) days as the Merit Board, in the exercise of its discretion, deems warranted.

Respectfully submitted,


Leo Schmitz, Director

Illinois State Police
801 South Seventh Street, Suite 1100-S
Springfield, Illinois 62794-9461

ILLINOIS STATE POLICE DIRECTIVE ROC-002, RULES OF CONDUCT

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| RESCINDS: ROC-002, 2005-020, revised 03-02-2005. | REVISED: 03-30-2007 2007-023 |
| RELATED DOCUMENTS: PER-009, PER-032, PER-033 | DISTRIBUTION: All employees maintaining an ISP Directives Manual All holders of the ISP Field Manual Office/desk copy |
| RELATED CALEA STANDARDS: 1.2.3, 1.3.1, 11.3.2., 12.1.2., 12.1.3., 26.1.1, 26.1.3, 26.1.5, 52.1.1, 61.1.8 | |

I. POLICY

The Illinois State Police (ISP) will establish rules of conduct by which officers of the Department will conduct themselves both on and off duty.

II. AUTHORITY

Pursuant to the authority granted to the Director of the ISP in 20 ILCS 2605/55a et seq., the following rules of conduct are promulgated for officers. Failure to comply may result in discipline as provided in the Rules and Regulations of the ISP Merit Board or the Collective Bargaining Agreement.

III. RULES AND REGULATIONS

NOTE: See Addendum 1, for the Discipline Schedule identifying the range of possible discipline for each level of misconduct.

III.A. Rules and regulations for all officers.

- III.A.1. Officers will uphold the Constitutions of the United States and the state of Illinois, obey all federal, state and local laws in which jurisdiction the officer is present, and comply with court decisions and orders of courts having jurisdiction.

On-duty petty or traffic offense - A violation of this rule is Level 1 Misconduct.

Misdemeanor Offense - A violation of this rule is Level 4 Misconduct.

Felony Offense - A violation of this rule is Level 7 Misconduct.

- III.A.2. If an officer enters a plea of guilty, nolo contendere, stipulates to the facts or is found guilty of a violation of any law, or if there is any other judicial determination that will support any punitive measure taken against the officer, such action by the officer or judicial entity will be prima facie evidence of a violation of this directive.

On-duty petty or traffic offense - A violation of this rule is Level 1 Misconduct.

Misdemeanor Offense - A violation of this rule is Level 6 Misconduct.

Felony Offense - A violation of this rule is Level 7 Misconduct.

- III.A.3. Officers are prohibited from posting bonds for any person as established in 725 ILCS 5/110-13.

A violation of this rule is Level 2 Misconduct.

- III.A.4. Officers will obey any lawful order of a superior. This will include orders relayed from a superior, by a person of the same or lesser rank, or by a telecommunicator via radio or electronic medium.

A violation of this rule is Level 3 Misconduct.

A violation of this rule for refusal to submit to an administrative breath test following a lawful order by a superior is Level 7 Misconduct.

A violation of this rule for failure to terminate involvement in a vehicular pursuit following a lawful order by a superior is Level 2 Misconduct.

- III.A.5. Officers who are given an otherwise proper order that is in conflict with a previous order, rule, regulation, or directive will respectfully inform the superior officer issuing the order of the conflict. If the superior officer issuing the order does not alter or retract the conflicting order, the order will stand. Under these circumstances, the responsibility for the conflict will be upon the superior officer. Officers will obey the conflicting order and will not be held responsible for disobedience of the order, rule, regulation or directive previously issued.

A violation of this rule is Level 1 Misconduct.

- III.A.6. Officers will not obey any order that they know or should know would require them to commit any illegal act. If in doubt as to the legality of an order, officers will request the issuing officer to clarify the order or to confer with higher authority.

A violation of this rule is Level 1 Misconduct.

- III.A.7. Officers will conduct themselves on and off duty in such a manner as to reflect favorably on the Department. Officers will not engage in conduct that discredits the integrity of the Department or its employees, or that impairs the operations of the Department. Such actions will constitute conduct unbecoming an officer.

A violation of this rule is Level 1 Misconduct.

- III.A.8. Officers will maintain a level of conduct in their personal and business affairs that is in keeping with the highest standards of the law enforcement profession. Officers will not participate in any conduct that impairs their ability to perform as law enforcement officers or causes the Department to be brought into disrepute.

A violation of this rule is Level 2 Misconduct.

- III.A.9. Officers will report for duty at the time and place required or report their inability to do so by notifying their supervisor or the appropriate headquarters office at least one hour prior to the beginning of their tour of duty. Officers will not leave their assigned duty posts during a tour of duty except when authorized by proper authority. Officers will report for duty physically and mentally fit to perform their duties or will immediately report to their supervisor any physical and/or mental condition(s) that would prevent them from performing their duties. They will be properly equipped and cognizant of information required for the proper performance of duty so that they may immediately assume their duties. Judicial subpoenas will constitute an order to report for duty under III.A.9.

A violation of this rule is Level 1 Misconduct.

- III.A.10. Officers will not feign illness or injury, falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of this Department or any other governmental agency or individual authorized to conduct such an inquiry as to the condition of their health.

A violation of this rule is Level 2 Misconduct.

- III.A.11. Officers will remain awake while on duty. If unable to do so, they will notify their superior officer, who will determine the proper course of action.

A violation of this rule is Level 1 Misconduct.

- III.A.12. Officers will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Officers will perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the officer's rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; the failure to successfully complete mandatory annual training requirements; or absence without leave. An isolated incident can be evidence of incompetency and/or unsatisfactory performance. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance: repeated poor evaluations or a written record of repeated infractions of rules, regulations, directives or orders of the Department.

A violation of this rule is Level 1 Misconduct.

- III.A.13. Officers will not solicit or accept from any person, business or organization any gift (including money, tangible or intangible personal property, food, beverage, loan, promise, service or entertainment) for the benefit of the officer or the Department, if it may reasonably be inferred that the person, business or organization:

- III.A.13.a. seeks to influence action of an official nature or seeks to affect the performance or nonperformance of an official duty.

A violation of this rule is Level 2 Misconduct.

- III.A.13.b. has an interest that may be substantially affected directly or indirectly by the performance or nonperformance of an official duty.

A violation of this rule is Level 2 Misconduct.

- III.A.14. Officers will not use their official position, official identification cards or stars for:

- III.A.14.a. personal or financial gain for themselves or others.

A violation of this rule is Level 3 Misconduct.

- III.A.14.b. obtaining privileges not otherwise available to them except in the performance of duty.

A violation of this rule is Level 2 Misconduct.

- III.A.14.c. avoiding consequences of illegal acts.

A violation of this rule is Level 2 Misconduct.

- III.A.15. Officers will not lend to another person their identification cards or stars or permit them to be photographed or reproduced without the approval of the Director.

A violation of this rule is Level 3 Misconduct.

- III.A.16. Officers will not authorize the use of their names, photographs or official titles that identify them as officers, in connection with testimonials or advertisements of any commodity or commercial enterprise, without the approval of the Director.

A violation of this rule is Level 1 Misconduct.

- III.A.17. Officers will not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service or commercial service (such as an attorney, ambulance or towing service, bondsman, mortician, etc.). In the case of ambulance or towing service when such service is necessary and the person needing the service is unable or unwilling to procure it or request assistance, officers will proceed in accordance with established Department procedures. This will not include any recommendation made in the performance of official duties that is in the best interest of the Department and does not provide benefit to the officer, or the officer's family and/or personal or business associates.

A violation of this rule is Level 1 Misconduct.

- III.A.18. Officers will be courteous to the public. Officers will be tactful and professional in the performance of their duties, will control their tempers, and exercise the utmost patience and discretion and will not engage in argumentative discussions even in the face of extreme provocation. In the performance of their duties, officers will not use coarse, violent, profane or insolent language or gestures, and will not express any prejudice concerning race, religion, politics, national origin, lifestyle or similar personal characteristics.

A violation of this rule is Level 1 Misconduct.

- III.A.18.a. Officers will not engage in any conduct that constitutes harassment or discrimination as herein defined.

The term discrimination within the context of enforcement action, includes any action that constitutes the provision of unequal protection under the law based on race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital or military (veteran) status.

The term harassment within the context of enforcement action, includes any physical conduct or verbal or nonverbal communication that may reasonably be interpreted as related to race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital or military (veteran) status that is unwelcome, uninvited, unreciprocated and usually, but not always repeated and such conduct is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's right to equal protection under the law.

The term sexual harassment within the context of enforcement action includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct by an individual is used as the basis for enforcement decisions affecting such individual.

A violation of this rule is Level 6 Misconduct.

- III.A.19. Officers will carry their identification cards (and star when carrying a weapon) on their person at all times, except when impractical or dangerous to their safety or to an investigation. They will furnish their name and identification number to any person requesting that information, when they are on duty or while holding themselves out as having an official capacity, except when the withholding of such information is necessary for the performance of police duties or is authorized by proper authority. Officers will make every effort to ensure the security and safekeeping of the identification and star at all times.

A violation of this rule is Level 1 Misconduct.

- III.A.20. When any person needs assistance or advice, or makes complaints or reports, either by telephone or in person, all pertinent information will be obtained in an official and courteous manner and will be properly and judiciously acted upon consistent with established Department procedures.

A violation of this rule is Level 1 Misconduct.

- III.A.21. Except as necessary to the performance of official duties, or where unavoidable because of other family relationships of the officer, officers will avoid regular or continuous associations or dealings with persons whom they know, or should know, are persons under criminal investigation or indictment, or who have a reputation in the community or the Department for present or past involvement in felonious or criminal behavior, or who have a felony conviction.

A violation of this rule is Level 4 Misconduct.

- III.A.22. Except in the performance of duty or while acting under proper and specific orders from a superior officer, officers will not knowingly run, enter, visit or frequent a house of prostitution, gambling house or establishment wherein the laws of the United States, the state, or the local jurisdiction are violated, solicit a prostitute or pimp, or patronize a prostitute or pimp.

A violation of this rule is Level 7 Misconduct.

- III.A.23. Officers will not engage or participate in any illegal sexual act or activity, including but not limited to prostitution and/or pimping.

A violation of this rule is Level 7 Misconduct.

- III.A.24. Officers will not publicly criticize or ridicule the Department, its policies or other employees by speech, writing or other expression, where such speech, writing or other expression is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline or is made with reckless disregard for truth.

A violation of this rule is Level 2 Misconduct.

- III.A.25. Officers will not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge information, or any other matters of the Department while holding themselves out as representing the Department in such matters without the authority of the district commander or the functional equivalent, or their designee.

A violation of this rule is Level 2 Misconduct.

- III.A.26. Officers will not accept compensation, honorariums, or permit their expenses to be paid by sources other than the state of Illinois for speaking or writing assignments performed as part of their official duties unless specifically authorized by the Director or his/her designee.

A violation of this rule is Level 1 Misconduct.

- III.A.27. Officers will not engage in any strike. "Strike" includes the concerted failure to report for duty, willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the absence in whole or in part from the full, faithful and proper performance of the duties of employment for the purposes of inducing, influencing or coercing a change in conditions, compensation, rights, privileges or obligations of employment. No officer will refuse to cross any picket line while on duty by whomever established.

A violation of this rule is Level 7 Misconduct.

- III.A.28. Officers will have personally-owned telephones (either a standard land-line telephone or a cellular telephone) in their residences and will immediately report any changes of telephone numbers or street addresses to their supervisor and to such other persons as may be appropriate.

A violation of this rule is Level 1 Misconduct.

- III.A.29. Officers will not interfere with cases being handled by other officers of the Department or by any other governmental agency unless:

III.A.29.a. ordered to intervene by a superior officer.

III.A.29.b. the intervening officer reasonably believes that a manifest injustice would result from failure to take immediate action. When intervention occurs, a report of such intervention will be made to a superior officer as soon as possible.

A violation of this rule is Level 3 Misconduct.

- III.A.30. Officers will not undertake any investigation or other official action not part of their regularly assigned duties without obtaining permission from a supervisor unless the exigencies of the situation require immediate police action.

A violation of this rule is Level 1 Misconduct.

- III.A.31. Officers will treat the official business, evidence, documents, information, e-mail, and photographs of the Department as confidential.

III.A.31.a. Information regarding official business will be disseminated in accordance with established Departmental procedures. Officers may remove or copy official records or reports from a police installation only in accordance with established Departmental procedures.

A violation of this rule is Level 3 Misconduct.

III.A.31.b. Officers will not access or divulge any confidential information, existing in any form, or the identity of any persons giving confidential information or release items of evidence, documents, photographs, etc., to members of the news media or others outside the criminal justice system without the express permission of the Director of the ISP, or his designee.

A violation of this rule is Level 7 Misconduct.

III.A.31.c. Officers assigned to specialty units within the ISP or the criminal justice system may be required to attain federal security clearance or sign confidentiality agreements. Any breach of a security clearance or disclosure of information in violation of a confidentiality agreement is prima facie evidence of a violation of this directive.

A violation of this rule is Level 7 Misconduct.

- III.A.32. Officers will not:

III.A.32.a. engage in political activities, campaign while off duty, or express political beliefs while:

III.A.32.a.1) wearing a uniform or any part thereof that would identify the individual as an ISP officer or using property of the Department.

A violation of this rule is Level 1 Misconduct.

- III.A.32.a.2) displaying or otherwise leading others to believe he/she is carrying a firearm or a star.

A violation of this rule is Level 1 Misconduct.

- III.A.32.a.3) promoting him/herself as an ISP officer representing the interest of the Department.

A violation of this rule is Level 1 Misconduct.

- III.A.32.b. solicit political contributions from employees or non-employees during regular working hours.

A violation of this rule is Level 6 Misconduct.

- III.A.32.c. solicit or receive political contributions anytime on state property unless that property is rented or leased by private individuals or corporations.

A violation of this rule is Level 6 Misconduct.

- III.A.33. Officers will submit all necessary reports on time in accordance with established Department procedures.

A violation of this rule is Level 1 Misconduct.

Reports submitted by officers will be truthful and complete, and no officer will knowingly make false statements, charges or allegations in connection with any Department citations, warnings, assistance rendered, accident reports, field reports, investigative reports, computer entries or by any other means that creates an official record of the Department.

A violation of this rule is Level 5 Misconduct.

- III.A.34. Property or evidence that has been discovered, gathered or received in connection with Department responsibilities will be processed in accordance with established Department procedures.

A violation of this rule is Level 2 Misconduct.

- III.A.35. Officers will not convert to their own use, manufacture, conceal, falsify, destroy, remove, disguise, or alter any property or evidence in connection with an investigation or other police action, except in accordance with established Departmental procedures.

A violation of this rule is Level 4 Misconduct.

- III.A.36. Officers will not knowingly purchase or otherwise obtain control over property of any kind that has at any time previously been held, owned, purchased, seized, or in any way controlled by the Department or any Metropolitan Enforcement Group, task force, or other entity of which the Department or employees of the Department are participants, unless authorized by the Director to do so. This prohibition also applies to purchases made by family members or others that result in the officer obtaining full or partial control or use of the property.

A violation of this rule is Level 4 Misconduct.

- III.A.37. Officers will not make false accusations of a felony, misdemeanor, traffic, petty offense or an administrative charge. Officers will not withhold information or testimony, if to do so would mislead judicial or administrative proceedings. Officers will testify truthfully when under oath. However, officers will not be required to waive any applicable constitutional rights.

A violation of this rule is Level 7 Misconduct.

- III.A.38. Officers will utilize Department equipment only for its intended purpose, in accordance with established Department procedures and will not abuse or damage Department equipment. Officers will use reasonable care to avoid loss of Department equipment. All Department equipment issued to officers will be maintained in proper order.

A violation of this rule is Level 1 Misconduct.

- III.A.39. Officers will operate official vehicles in a careful and prudent manner, and will obey all laws and all Department directives pertaining to such operation.

- III.A.39.a. Loss or suspension of any driving license will be reported to the Department immediately.

A violation of this rule is Level 4 Misconduct.

- III.A.39.b. Officers will maintain a valid Illinois Drivers License at all times.

- III.A.39.b.1) Officers will not allow their Illinois Drivers License to expire.

A violation of this rule is Level 1 Misconduct if the Illinois Drivers License was expired for 30 days or less.

A violation of this rule is Level 2 Misconduct if the Illinois Drivers License was expired for more than 30 days.

- III.A.39.b.2) Officers will not allow their Illinois Drivers License to be suspended or revoked.

A violation of this rule is Level 3 Misconduct if the suspension or revocation for 60 days or less.

A violation of this rule is Level 6 Misconduct if the suspension or revocation was for more than 60 days.

- III.A.40. Upon the order of the Director, Colonel, or a superior officer, officers will truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the Department that may be asked of them.

A violation of this rule is Level 4 Misconduct.

- III.A.41. Officers are required to truthfully answer questions by, or render material and relevant statements to, competent authority in a Department personnel investigation when said officer:

III.A.41.a. is not the subject of the investigation; or

III.A.41.b. is the subject of the investigation, but the allegation does not indicate that a recommendation for demotion, suspension of more than 15 days or discharge from the Department is probable; and/or

III.A.41.c. is the subject of the investigation and has been advised of his/her statutory administrative proceedings rights if the allegation indicates that a recommendation for demotion, suspension of more than 15 days or discharge from the Department is probable.

This rule shall not supersede said officer's constitutional rights concerning self-incrimination if the investigation indicates that criminal prosecution is likely against that officer.

A violation of this rule is Level 7 Misconduct.

- III.A.42. Officers will not mistreat persons who are in custody or are otherwise being detained. Officers will handle such persons in accordance with law and Department procedures.

A violation of this rule is Level 4 Misconduct.

- III.A.43. Officers will not use more force in any situation than is reasonably necessary under the circumstances. Officers will use force in accordance with law and Department procedures.

A violation of this rule is Level 4 Misconduct.

- III.A.44. Officers will not make any arrest, search or seizure that they know or should know is not in accordance with law and Department procedures.

A violation of this rule is Level 3 Misconduct.

- III.A.45. Officers on duty will maintain a neat, well-groomed appearance according to Department guidelines, except as otherwise allowed by policy.

A violation of this rule is Level 1 Misconduct.

- III.A.46. Officers, when in uniform, may use tobacco as long as:

III.A.46.a. they are not in a formation.

III.A.46.b. they do not have to leave their assignment or post for the sole purpose of doing so.

III.A.46.c. they are not engaged in traffic direction and control.

A violation of this rule is Level 1 Misconduct.

- III.A.47. Officers will not:

III.A.47.a. possess or use cannabis or any controlled substances, except when it is lawful to do so. When controlled substances are prescribed or other medication is being used, officers will notify their superior officer if the use will affect their job performance. A verified positive drug test obtained pursuant to Department directives will constitute prima facie evidence of a violation of this rule.

A violation of this rule is Level 7 Misconduct.

III.A.47.b. while on or off-duty, drive or be in physical control of a vehicle while under the influence of alcohol, any other drugs, intoxicating compounds, or any combination thereof.

A violation of this rule is Level 7 Misconduct.

III.A.47.c. operate a Department vehicle after consuming alcoholic beverages while on duty or in uniform unless such consumption is necessitated by the nature of a duty assignment. In any case, officers will not operate a Department vehicle after consuming alcoholic beverages to the point of impairment.

A violation of this rule is Level 7 Misconduct.

III.A.47.d. store or bring into any police facility or state vehicle alcoholic beverages, controlled substances, or cannabis derivatives, except those that are held as evidence, used for training or other official capacity.

A violation of this rule is Level 7 Misconduct.

- III.A.47.e. consume alcoholic beverages while on duty except in the performance of duty, and in those instances, never to the extent that the officer's ability to perform an official assignment or function is impaired.

A violation of this rule is Level 7 Misconduct.

- III.A.47.f. report for duty while under the influence of alcohol, any other drugs, intoxicating compounds, or any combination thereof to any degree whatsoever or with an odor of alcohol on their breath.

A violation of this rule is Level 7 Misconduct.

- III.A.47.g. consume alcoholic beverages, while off-duty, to the extent that it results in impairment, intoxication, or obnoxious or offensive behavior that discredits them or the Department, or renders the officers unfit to report for their next regular tour of duty.

A violation of this rule is Level 3 Misconduct.

- III.A.47.h. enter any establishment or place where the principal business is the sale of alcoholic beverages while on duty and/or in uniform, except in the performance of duty.

A violation of this rule is Level 2 Misconduct.

- III.A.48. Officers will reside within the state of Illinois and locate in a manner determined acceptable by their Colonel or his/her designee.

A violation of this rule is Level 3 Misconduct.

- III.A.49. Personal activities or associations of an officer that knowingly create an apparent or real conflict of interest with the conduct of official duties are prohibited. A "conflict of interest" arises when an officer's private interest, whether of a financial nature or otherwise, conflicts with the officer's impartial conduct of official duties and responsibilities.

A violation of this rule is Level 3 Misconduct.

- III.A.50. Officers will notify supervisory officers when they are exposed to information or receive an assignment involving a person or group with whom the officers have had social, business or other relationships of a nature that might give the appearance of impairing the officers' impartiality or independence in the conduct of an assignment or might impair Department operations.

A violation of this rule is Level 1 Misconduct.

- III.A.51. Any officer who has failed to report to work or receive approval for an absence for a period of five consecutive days and has not notified his/her immediate supervisor, immediate non-bargaining unit supervisor or the next available supervisor in the chain of command (whichever is appropriate) during that time period of the reason for the absence, or fails to return to work from an approved leave of absence according to the terms thereof without the prior approval of the Director, absent exigent circumstances, is deemed to have abandoned his/her job and forfeits their employment with the ISP.

A violation of this rule is Level 7 Misconduct.

- III.A.52. Officers will, upon being subpoenaed, attend court or quasi-judicial hearings. When appearing in court on Department matters or investigations, either the official uniform or clothing conforming to standards imposed on officers working in plain clothes will be worn. Weapons will not be displayed, unless wearing the uniform. Members will present a neat and clean appearance, avoiding any mannerism that might imply disrespect to the court.

A violation of this rule is Level 1 Misconduct.

- III.A.53. Any officer subpoenaed to testify for the defense in any trial or hearing, or against the Department in any proceeding, will notify his/her commander upon receipt of the subpoena, notice or request to do so.

A violation of this rule is Level 1 Misconduct.

- III.A.54. Any officer who has knowledge of actual or suspected criminal activities or is about to conduct a criminal investigation will notify a supervisory officer orally or in writing prior to enforcement action being taken or as soon as practical.

A violation of this rule is Level 1 Misconduct.

- III.A.55. Officers will not obstruct any investigation by destroying, altering, concealing or disguising real evidence, or by planting false evidence or furnishing false information to lawful authority.

A violation of this rule is Level 7 Misconduct.

- III.A.56. Officers will not induce a witness or any other person who has knowledge regarding any issue under investigation by the Department, or any other law enforcement agency, to make false statements, withhold information, conceal information, absent themselves or otherwise fail to cooperate with lawful investigating authorities.

A violation of this rule is Level 7 Misconduct.

- III.A.57. An officer will not volunteer to testify in civil actions and will not testify unless lawfully and properly subpoenaed or when directed to do so by the officer's commanding officer upon the advice of the Department legal section. If a subpoena arises out of Department employment or if the officer is informed they are a party to a civil action arising out of Department employment, the officer will immediately notify their commanding officer of the service or notification and of the testimony he/she is prepared to give. Whenever an officer is subpoenaed to testify in a civil or criminal proceeding other than Department related, the officer will appear and testify on his/her own time and will provide his/her own transportation. The appearance and testimony will be made in appropriate civilian attire. Members and employees will not enter into any financial understanding for appearances as witnesses prior to any trial except in accordance with current directives.

A violation of this rule is Level 2 Misconduct.

- III.A.57.a. Officers will notify their supervisor before giving a deposition or affidavit in a civil matter.

A violation of this rule is Level 1 Misconduct.

- III.A.58. Officers will not serve civil process or assist in civil cases unless the specific consent of the Director or Colonel is obtained.

A violation of this rule is Level 1 Misconduct.

- III.A.59. When an officer becomes aware they are the subject of an investigation by, or a criminal complaint to, a government agency other than the ISP, the officer will immediately notify his/her commanding officer/work unit supervisor, in writing, and inform him/her of the circumstances surrounding the incident being investigated, the agency conducting said investigation and what actions have been taken to resolve the matter. Officers must submit written notification to their supervisor immediately following any non-petty arrest, indictment or conviction (except minor traffic offenses).

A violation of this rule is Level 2 Misconduct.

- III.A.60. Whenever an officer is subpoenaed to testify in a civil or criminal proceeding other than Department related, the officer will appear and testify on his/her own time and will provide his/her own transportation. The appearance and testimony will be made in appropriate civilian attire.

A violation of this rule is Level 2 Misconduct.

- III.A.61. Officers will not engage in any conduct that constitutes sexual harassment as herein defined. The term sexual harassment, within the context of Department employment includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- III.A.61.a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

A violation of this rule is Level 6 Misconduct.

- III.A.61.b. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

A violation of this rule is Level 6 Misconduct.

- III.A.61.c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

A violation of this rule is Level 4 Misconduct.

- III.A.62. Officers will not engage in any conduct that constitutes hostile work environment harassment as herein defined. The term hostile work environment harassment within the context of Department employment, includes any physical conduct or verbal or non-verbal communication that may reasonably be interpreted as related to race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital or military (veteran) status that is unwelcome, uninvited, unreciprocated and usually, but not always, repeated and such conduct is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

A violation of this rule is Level 4 Misconduct.

- III.A.63. Officers will not engage in any conduct that constitutes discrimination as herein defined. The term discrimination within the context of Department employment, includes:

- III.A.63.a. Denial of promotion(s), advancement, training or other employment opportunities based on race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital, or military (veteran) status.

A violation of this rule is Level 6 Misconduct.

- III.A.63.b. Lowered performance rating(s) or evaluations, demotion, suspension, discharge, or other disciplinary or personnel actions based on race, color, national origin, disability, sex, sexual orientation, age, religion, creed, marital, or military (veteran) status.

A violation of this rule is Level 6 Misconduct.

- III.A.64. Officers will not engage in conduct that is in violation of the policies and procedures established in directives PER-009, "Equal Employment Opportunity," PER-032, "Discrimination and Harassment," or PER-033, "Sexual Harassment."

A violation of this rule is Level 4 Misconduct.

- III.A.65. Officers will use video/audio recording equipment in accordance with established Department procedures.

A violation of this rule is Level 2 Misconduct.

- III.A.66. Officers will use Mobile Data Computer (MDC) systems in accordance with established Department procedures.

A violation of this rule is Level 2 Misconduct.

III.B. Rules and regulations for supervisory personnel.

- III.B.1. Supervisory personnel are responsible for subordinates' adherence to Department rules, regulations, policy, orders, directives, and procedures and will take reasonable action to ensure compliance.
- III.B.2. Supervisors are responsible and accountable for the maintenance of discipline and will provide leadership, supervision and example to ensure the efficiency of Department operations.
- III.B.3. Supervisors are responsible for the job performance of all subordinates placed under them.
- III.B.4. Authority and functions may be delegated to subordinates, but responsibility remains with the supervisor who made the assignment.
- III.B.5. Supervisory personnel are responsible for all job related failures on the part of their subordinates when the supervisor was aware or reasonably should have been aware of the failure or the potential for failure and did not take the appropriate action to correct the deficiency.

| Indicates new or revised items.

-End of Directive-

**ILLINOIS STATE POLICE DIRECTIVE
ROC-002, RULES OF CONDUCT
ADDENDUM 1, DISCIPLINE SCHEDULE**

| | |
|--|---|
| endum 1, 2005-020, revised 03-02-2006. | REVISED: 03-30-2007 2007-023 |
| CUMENTS: -032, PER-033 | DISTRIBUTION: All employees maintaining an ISP Directives Manual All holders of the ISP Field Manual Office/desk copy |
| LEA STANDARDS: .3.2., 12.1.2., 12.1.3., 26.1.1, 26.1.3, 26.1.5, 52.1.1, 61.1.8 | |

and including termination, is determined by the ISP Merit Board.

se reflects the range of discipline that may be imposed.

ension." The word "Termination" means "up to and including termination."

| Second Offense | Third Offense | Fourth Offense | Fifth Offense | Sixth Offense | Seventh Offense |
|-------------------|-------------------|-------------------|-------------------|-------------------|-----------------------------|
| 1-10 days | 5-30 days | 15-30 days | 31-90 days | 60-180 days | 90 days - Up to Termination |
| | | 31-45 days | | | |
| 15-30 days | 31-45 days | 60-90 days | 90-180 days | Up to Termination | |
| 31-45 days | 60-90 days | 90-180 days | Up to Termination | | |
| 60-90 days | 90-180 days | Up to Termination | | | |
| 90-180 days | Up to Termination | | | | |
| Up to Termination | | | | | |

that may be imposed by the ISP Merit Board.

-End of Addendum-

**ROC-002
ADDENDUM 1**

ILLINOIS STATE POLICE DIRECTIVE PER-032, DISCRIMINATION AND HARASSMENT

| | |
|---|---|
| RESCINDS: PER-032, 2008-049, revised 10-09-2008. | REVISED: 11-22-2010 2010-112 |
| RELATED DOCUMENTS: PER-009, PER-030, PER-033, PER-103 | DISTRIBUTION: All employees, sworn and code Office/desk copy |
| RELATED CALEA STANDARDS: 26.1.3, 26.1.4, 26.1.5, 26.1.8, 31.2.3, 52.1.1, 52.1.2, 52.1.3, 52.2.1, 52.2.2, 52.2.3, 52.2.4, 52.2.5 | |

I. POLICY

- I.A. The Illinois State Police (ISP) prohibits discrimination in all forms, including but not limited to harassment, and retaliation; 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 harassment.
- I.C. The ISP reaffirms its commitment to eliminate discrimination, 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 ISP Office of Equal Employment Opportunity (EEO).
 - 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-033, "Sexual 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 this directive regardless of whether an employee wants to sign 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/citizen complaint.cfm](http://www.isp.state.il.us/services/citizen%20complaint.cfm)).

NOTE: This policy does not prohibit the ISP from making lawful employment decisions to treat employees differently from one another for legitimate business reasons. Management reserves the right to address performance-based issues in order to maintain efficient operations within the Department.

II. AUTHORITY

- II.A. 775 ILCS 5/1, et seq., "Illinois Human Rights Act"
- II.B. 42 U.S.C. 12101 et seq., "Americans with Disabilities Act"
- II.C. 29 U.S.C. 626 et seq., "Age Discrimination in Employment Act"
- II.D. 42 U.S.C. 2000e et seq., "Civil Rights Act of 1964"
- II.E. Part 2520 et seq., of the Illinois Administrative Code, Procedures of the Department of Human Rights

III. DEFINITIONS

- 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. Aggrieved Party – a person who has completed a Dispute Intake and Resolution Form, ISP 1-36 (available from an EEO counselor), or otherwise made an allegation related to harassing conduct, discrimination, harassment, or retaliation.
- III.C. 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, but not including those reports made on a CADMF.
- III.D. Alternative Dispute Resolution (ADR) – 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.E. Complaint – a report of harassing conduct, discrimination, harassment, or retaliation made on a CADMF.
- III.F. Complainant – a person who has made a formal complaint of harassing conduct, discrimination, harassment, or retaliation on a CADMF.
- III.G. Discrimination – an adverse employment action based on an impermissible factor.
- III.H. Dispute Intake and Resolution Form – a form, ISP 1-36, that documents an initial EEO allegation, the response of the respondent, and any suggested resolutions.
- III.I. EEO Compliance Manager – a representative of the EEO Office responsible for ensuring all ISP personnel are made aware of their rights and responsibilities under the ISP's EEO policies and procedures, as well as coordinating the ADR process.
- III.J. EEO Intake Counselor – representatives of the EEO Office who are responsible for handling the Intake Inquiry process.
- III.K. EEO Investigative Personnel – representatives of the EEO Office who are responsible for handling the limited review and investigation processes.
- III.L. EEO Office – the ISP Office of Equal Employment Opportunity that falls under the Office of the Director.
- III.M. EEO Officer – the ISP employee appointed by the Director (pursuant to the Illinois Human Rights Act (IHRA), and approved by the IDHR) who is assigned full-time to fulfill the obligations of the position outlined in law and ISP policy; also referred to as the Chief of the EEO Office or the EEO Program Manager.
- III.N. EEO Resolution and Agreement – a document which outlines issues brought by an aggrieved party or a complainant and the terms of the resolution which is agreed upon by such person and the respondent/subject and approved by EEO and the Director. An EEO Resolution and Agreement constitutes a direct order.
- III.O. EEOC – the Equal Employment Opportunity Commission is an office of the federal government that administers federal statutes prohibiting discrimination in employment.
- III.P. 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 harassing conduct, discrimination, harassment, or retaliation. It does not refer to allegations or complaints made in good faith that cannot be proven.

- III.Q. Genetic Information - information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder, or condition of an individual's family members (i.e. an individual's family medical history).
- III.R. 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.S. Harassment – a form of discrimination that is unlawful under Title VII of the U.S. Civil Rights Act and the IHRA, which includes:
 - III.S.1. Sexual Harassment - any unwelcome sexual conduct (as defined below) in the workplace when:
 - III.S.1.a. Sexual Quid Pro Quo Harassment
 - III.S.1.a.1) Submission to such conduct is, either explicitly or implicitly, a condition for receiving job benefits
 - III.S.1.a.2) Rejection of such conduct results in an adverse employment action.
 - III.S.1.b. Sexual Hostile Work Environment Harassment
 - III.S.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.S.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.S.2. Hostile Work Environment Harassment - any physical conduct or verbal or non-verbal communication in the workplace related to an impermissible factor that is:
 - III.S.2.a. Unwelcome
 - III.S.2.b. Uninvited
 - III.S.2.c. Unreciprocated and
 - III.S.2.d. Usually, but not always, repeated
 - III.S.2.e. 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.S.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.T. Illinois Department of Human Rights (IDHR) - an office of state government that enforces the IHRA prohibiting discrimination in employment.

- III.U. 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), or order of protection status; or political affiliation or beliefs.
- III.V. Intake Inquiry– an examination conducted by the EEO in an attempt to facilitate a prompt resolution to an allegation.
 - III.V.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.V.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.W. Investigation – a formal inquiry conducted in accordance with PER-030, "Complaint and Disciplinary Investigations," and/or this directive in response to a complaint of harassing conduct, discrimination, harassment, or retaliation.
- III.X. Limited Review – an examination conducted at the discretion of the Director prior to the receipt of a CADMF by EEO regarding concerns about harassing conduct, discrimination, harassment, or retaliation. 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.Y. 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. The EEO Office coordinates mediation, which is a form of ADR.
- III.Z. Order of Protection Status – means 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.AA. Protected Activity – includes, but is not limited to, having:
 - III.AA.1. Requested a reasonable accommodation pursuant to the Americans with Disabilities Act (ADA)
 - III.AA.2. Reported harassing conduct, discrimination, harassment, or retaliation to the ISP, IDHR, or EEOC
 - III.AA.3. Otherwise participated in the reasonable accommodation, intake inquiry, limited review, ADR, or investigation process
 - III.AA.4. Otherwise opposed discriminatory practices when done lawfully and in accordance with ISP Policy
- III.BB. Respondent - any person named in an allegation or otherwise determined to be a focus of an allegation.
- III.CC. 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.DD. 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.

- III.EE. Subject – any person named in a complaint or otherwise determined to be a focus of an Investigation.
- III.FF. 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.GG. Workplace – 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

IV.A. Employees

- IV.A.1. Employees are encouraged to act promptly when they perceive harassing conduct, discrimination, harassment, or retaliation in the workplace. Employees desiring information, referrals, or clarification concerning issues of harassing conduct, discrimination, harassment, or retaliation are encouraged to call the confidential ISP EEO number - (800) 952-1217.
- IV.A.2. Employees who believe they are the victims of harassing conduct, discrimination, harassment, or retaliation 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 discriminator, harasser, or retaliator 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 the harassing conduct, discrimination or 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 may make reports of harassing conduct, discrimination, harassment or retaliation verbally or in writing. Employees should make such reports 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, and will promptly provide all relevant information. "Cooperation" includes, but is not limited to, telling the truth and not intentionally omitting information.
 - IV.A.4.a. Interviews of employees who are the subject of an investigation that could result in discipline will be conducted in accordance with applicable policy and collective bargaining agreements.
 - IV.A.4.b. Employees shall not make false or misleading statements, nor withhold relevant information. (Employees are reminded evidence of untruthfulness during an EEO investigation must be reported by investigators and is subject to disclosure pursuant to Giglio v. United States, 405 U.S. 150 [1972].)
 - IV.A.4.c. Due to the nature of harassing conduct, discrimination, harassment, and retaliation, in addition to direct observations, employees must report relevant second-hand information, as well as beliefs and perceptions, but must distinguish between these types of knowledge.
 - IV.A.4.d. As part of an investigation or limited inquiry, employees may be required to document their knowledge of relevant issues surrounding an allegation or complaint. The documentation may include, but is not limited to, a sworn statement. (See paragraph V.G.6. for information regarding sworn statements.)

- IV.A.5. Employees aware or in possession of objects or documentation related to behavior which may reasonably be considered to be harassing conduct, discrimination, harassment, or retaliation, or a potential violation of EEO policy, will immediately report and forward such objects or documents to the EEO Office.
- IV.A.6. An employee who receives information, documents, or materials related to an external charge of discrimination by or against an ISP employee will immediately notify the EEO Office and Legal Office. Only the ISP Legal office will respond to requests for information from the ISP related to an external complaint.
- IV.A.7. Failure of an aggrieved party to cooperate with the EEO office or any other personnel conducting an intake inquiry, limited review, or investigation may result in the case being closed without further action. In such instance, the EEO Office will notify the aggrieved party.
- IV.A.8. An employee who makes an allegation or complaint of harassing conduct, discrimination, harassment or retaliation and who perceives a conflict of interest by persons involved in the Department's response to an allegation or complaint shall immediately disclose this information in writing to the EEO Office.
- IV.A.9. 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.10. All employees will comply with the confidentiality requirements of this directive (see paragraph VI. below).
- IV.B. Supervisors and managers:
 - IV.B.1. Will set the standard for acceptable behavior in the workplace. They will ensure their actions are not reasonably offensive based on an impermissible factor regardless of whether an allegation or complaint is received regarding such conduct, and will refuse to tolerate any form of harassing conduct, discrimination, harassment, or retaliation.
 - IV.B.2. Who become aware of information regarding behavior which may reasonably be considered harassing conduct, discrimination, harassment, or retaliation must report the actions in accordance with this directive regardless of how such information is obtained or whether an employee wants to make an allegation or formal complaint. Supervisors and/or managers must notify:
 - IV.B.2.a. The appropriate Deputy Director, 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.
 - IV.B.2.b. The appropriate Deputy Director and the EEO Office within 48 hours of becoming aware of information regarding behavior which may reasonably be considered harassing conduct, discrimination, harassment (*other* than sexual harassment), or retaliation.
 - IV.B.3. Will consult with the EEO Office prior to taking any action (other than the notifications described above) in response to allegations of harassing conduct, discrimination, harassment or retaliation.
 - IV.B.4. Will only complete a CADMF regarding allegations of harassing conduct, discrimination, harassment or retaliation when they cannot be resolved through the intake or ADR processes, the aggrieved party refuses to do so, and such supervisor or manager has sufficient independent corroborative evidence to warrant their signature on a CADMF.

- IV.B.5. Will not counsel or discipline any employee alleged to have engaged in behavior that could reasonably be considered harassing conduct, discrimination, harassment, or retaliation, until and unless the EEO Office has reviewed the matter.
- IV.B.6. Will consult with the EEO Office prior to taking any adverse employment action against an aggrieved party, complainant, or witness while the allegation or complaint is pending. Notifications to and consultation with the EEO office may be made by calling the ISP EEO 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 procedures established in this directive may be considered in performance evaluations as well as other personnel actions, as determined by the Director.

IV.C. EEO Office

- IV.C.1. Pursuant to the requirements of the IHRA, the EEO Office will engage in multiple functions that include, but are not limited to, compliance, intake, ADR, and investigations. To prevent an actual or perceived conflict of interest, functions will be performed separately and by different individuals.
 - IV.C.1.a. Compliance - The EEO Office will conduct research, develop policies, provide training, and respond to requests for information and clarification of EEO policies (however, supervisors and managers retain authority and responsibility for personnel actions).
 - IV.C.1.b. Intake - The EEO Office will respond to all reports of discrimination, harassment, and retaliation. 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 promptly and outside the investigative and disciplinary process.
 - IV.C.1.c. Investigations - The EEO Office will conduct investigations and/or limited reviews of potential violations of EEO policy. However, the EEO Office will only initiate an Investigation upon receipt of a completed and signed CADMF from the complainant or his/her supervisor or manager.
- IV.C.2. At any time where there is a matter pending with the EEO Office, such office may make recommendations regarding the need to temporarily transfer or change the supervisory assignment of the respondent/subject and/or aggrieved party while an intake inquiry, limited review, ADR or investigation is in progress. In any event, no temporary transfer or change in supervisory assignment will be punitive.
- IV.C.3. If the EEO Office is advised of potential violations of Department policy unrelated to EEO Policies, the EEO Office will provide the reporting party with a CADMF. The EEO Office will also report such allegations within five (5) days to the DII and/or the Division to which the respondent/subject is assigned for review and appropriate action. EEO will refer other potentially improper acts that fall outside the jurisdiction of the ISP to the appropriate agency or entity within ten (10) days.
- IV.C.4. Personnel assigned to the EEO Office will not serve on an interview panel related to the selection of employees for promotion, appointment, assignment, or training.

V. PROCEDURES

NOTE: Employees are encouraged to utilize the options set forth in this directive to resolve issues related to harassing conduct, discrimination, harassment, and retaliation (described below, and in Addendum 1). 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 Addendum 2 for contact information for these agencies.)

- V.A. These procedures apply to harassing conduct, discrimination, harassment, or retaliation allegations arising because of an impermissible factor or prior protected activity.
- V.B. Timeframes noted should be maintained unless special circumstances warrant an extension.

- V.B.1. During the initial reporting and screening of allegations, the EEO Office may grant extensions to the 45 days set out in section IV.A.3, but under no circumstances will the EEO Office extend the timeframes beyond the statutory deadlines for externally filing such allegations.
- V.B.2. During the intake inquiry and ADR processes the EEO Office, through mutual agreement of the aggrieved party and the respondent, may grant extensions to the timeframes.
- V.B.3. During the limited review and investigation processes, the Director may grant extensions to the timeframes.
- V.C. Initial reporting and screening of allegations
 - V.C.1. All employees reporting allegations of harassing conduct, discrimination, harassment, or retaliation and who desire a response from the ISP must communicate with an EEO Intake Counselor. An EEO Intake Counselor will make contact with the employee reporting such allegation(s) within five (5) days of receiving the report and document the employee's allegation(s).
 - V.C.2. EEO will review all allegations for initial timeliness pursuant to the timeframes noted herein, as well as validity and thoroughness of the information provided.
 - V.C.2.a. If information obtained in the screening of an allegation is insufficient to suggest the alleged actions constitute harassing conduct, discrimination, harassment, or retaliation; or shows the alleged actions fall outside the authority of the ISP, the EEO will notify the aggrieved party in writing. Employees may request that the EEO reconsider the decision by submitting his/her request in writing through the EEO Office to the Director or his/her designee along with any documentation to support his/her request.
 - V.C.2.b. If the information obtained in the screening of an allegation shows the alleged actions may constitute harassing conduct, discrimination, harassment, or retaliation, the EEO Office may remind the respondent of the need to refrain from conduct that may reasonably be considered discriminatory, harassing, and retaliatory; and complete an intake inquiry.
- V.D. Intake Inquiry
 - V.D.1. Upon determining a reported allegation may constitute harassing conduct, discrimination, harassment, or retaliation, where appropriate, an EEO Intake Counselor will:
 - V.D.1.a. Meet with the aggrieved party to document a brief explanation of his/her allegation(s) and requested resolution
 - V.D.1.b. Meet with the respondent to document any response to the allegation(s) and proposed resolution he/she has to offer
 - V.D.1.c. Gather additional information as needed and document the EEO Office's suggested resolution
 - V.D.1.d. Communicate with and document any additional information obtained during the respondent party's division's review of the matter, as well as their suggested resolution
 - V.D.1.e. if an agreed upon resolution is reached, the EEO Intake Counselor will prepare an EEO Resolution and Agreement.
 - V.D.2. Where possible, the intake inquiry process will be completed within 30 days of receipt of the allegation.

V.E. Alternative Dispute Resolution (ADR)

If the Intake Inquiry does not result in resolution of the allegation and the EEO Office determines it is appropriate to do so, the aggrieved party and respondent will be afforded the opportunity to participate in ADR. If either the aggrieved party or respondent are unwilling to participate in ADR, and when supported by a CADMF, the allegations will be referred for investigation (see paragraph V.G., below).

V.E.1. Mediation

V.E.1.a. If the aggrieved party and respondent agree to participate, EEO will coordinate mediation.

V.E.1.a.1) Two mediators selected by the EEO Office will meet with the aggrieved party and respondent to encourage dialogue and attempt to facilitate a resolution.

V.E.1.a.2) When possible, the assigned mediators should work in divisions other than the division(s) in which the aggrieved party and respondent work, and mediators should include a code employee when either the aggrieved party or respondent is a code employee.

V.E.1.b. The mediation will be conducted in a confidential, collaborative, and non-adversarial atmosphere.

V.E.1.b.1) The mediators will allow the aggrieved party to present an overview of the allegation and allow the respondent an opportunity to respond.

V.E.1.b.2) Mediators will make no determination as to whether or not any actions were consistent with department policy.

V.E.1.b.3) The mediators have no authority to impose a resolution upon the parties. Rather, the parties themselves, with the assistance of the mediators, will identify and come to agreement on a resolution.

V.E.1.c. If an agreed upon resolution is reached, the mediators will prepare an EEO Resolution and Agreement.

V.E.2. Participating in ADR does not prevent an employee from further using the procedures outlined in this policy if resolution cannot be reached or the discriminatory, harassing, or retaliatory conduct continues in the workplace.

V.E.3. Where possible, the ADR will be completed within 60 days of receipt of the allegation.

V.F. Limited Review

V.F.1. In the absence of a Dispute Intake and Resolution Form or CADMF, EEO investigators may conduct an examination of any ISP workplace activity regarding concerns about harassing conduct, discrimination, harassment, or retaliation.

V.F.2. These examinations will be conducted at the discretion of the Director and will not constitute an investigation.

V.F.3. The initiation of a limited review does not preclude the use of ADR.

V.F.4. Where possible, a limited review will be conducted within 60 days of receipt of an allegation.

V.F.5. If it is determined information obtained during a limited review warrants further investigation or may result in discipline, such information will be provided to the appropriate supervisor or manager so that he/she may determine whether a CADMF will be signed so that a formal investigation can be completed.

V.G. Investigation

- V.G.1. If an allegation remains unresolved through ADR, or at any time the aggrieved party wishes to proceed with an investigation in lieu of the intake inquiry or ADR processes, the aggrieved party will be provided a CADMF and notified of his/her right to pursue a formal complaint pursuant to ISP directive PER-030, "Complaint and Disciplinary Investigations." Should the aggrieved party fail to submit a completed CADMF within five (5) days, the case will be administratively closed unless further investigation by the EEO Office is deemed necessary to ensure compliance with the EEO policies and procedures.

NOTE: This does not preclude EEO from conducting limited reviews of workplace activities when done at the request of the Director. Such inquiries do not constitute an investigation unless supported by a CADMF.

- V.G.2. Employees may, but are not required to complete a CADMF at anytime after communicating with an EEO Intake Counselor regarding an allegation of discrimination, harassment, or retaliation. Employees may use the intake inquiry and ADR process without completing a CADMF.
- V.G.3. The initiation of an investigation does not preclude the use of ADR; however, once a CADMF is signed, successful resolution of a complaint through the ADR process must include withdrawal of the complaint as part of the EEO Resolution and Agreement.
- V.G.4. Upon receipt of a CADMF alleging violations of EEO policy:
- V.G.4.a. The EEO Office will advise the Director, Chief Legal Officer, and the Deputy Director(s) from the involved Division(s).
 - V.G.4.b. The EEO Office will consult with the DII to determine the appropriate office to investigate the complaint; however, in most instances the EEO Office will complete such investigations.
 - V.G.4.c. If the DII conducts the investigation, the DII will assign a personnel complaint (PC) number for internal tracking purposes.
 - V.G.4.d. If the DII does not conduct the investigation, it will refer the case back to the EEO Office and a personnel complaint referral (PCR) number will be assigned for internal tracking purposes.
 - V.G.4.e. When the DII or a special investigator is conducting the investigation, copies of all documentation will be forwarded to the EEO Office as they are individually approved.
- V.G.5. Investigations will be conducted in accordance with procedures as outlined. The scope of the investigation will be restricted to those acts noted in the CADMF but may be expanded if other potential violations are identified during the review or processing of the complaint.
- V.G.6. Should investigators request a sworn statement, employees will review a draft of the statement for accuracy, and must report to investigators any incorrect or incomplete information, prior to signing.
- V.G.6.a. When any needed corrections have been made to a statement, the statement provider will sign the statement attesting to the accuracy and completeness of the information contained therein.
 - V.G.6.b. A refusal to sign a statement may constitute insubordination and may be considered in performance evaluations and/or result in disciplinary action or other personnel actions, as determined by the Director.
- V.G.7. The EEO Office will notify the complainant when the evidence obtained in an investigation does not substantiate a violation of EEO policies.
- V.G.7.a. Should this occur, the complainant will be provided an opportunity to rebut the findings.

- V.G.7.b. Such rebuttal must be submitted in writing within seven (7) calendar days of notification and must include specific information not already provided which calls into question the findings of the Investigation.
 - V.G.7.b.1) If received, EEO will review the rebuttal and determine if further investigation is warranted, and the limits of any such investigation.
 - V.G.7.b.2) New allegations substantively different from those noted in the CADMF will be handled in accordance with the procedures outlined in this directive and may require another CADMF to support further action.
- V.G.8. Upon completion of the investigation, the Investigative Supervisor will review the information and prepare a written recommendation.
- V.G.9. The Chief of the EEO Office will:
 - V.G.9.a. Review the information and recommendation.
 - V.G.9.b. Provide his/her own recommendation to the Director that will include, but not be limited to, recommended charges and/or discipline where warranted.
 - V.G.9.c. Afford the Chief Legal Officer and Chief of the Office of Labor Relations and Special Projects the opportunity to review and comment upon the written recommendation prior to its submission to the Director.
- V.G.10. Upon review of relevant information, the Director will notify all parties of his/her decision.
 - V.G.10.a. The Director should notify the complainant of such decision within 180 days of completing the CADMF or be notified that the Director has granted an extension.
 - V.G.10.b. The Director will notify the complainant of his/her right to file a charge with the appropriate state or federal agency. However, nothing in this policy will prevent an employee from filing a discrimination complaint with the appropriate state or federal agency at any step in the process.
- V.G.11. The investigator assigned is responsible for accurate documentation of the investigation.
- V.H. Withdrawal
 - V.H.1. Upon submitting a written request, the complainant may withdraw an allegation or complaint, or any part thereof, during the Intake Inquiry, ADR or investigation processes.
 - V.H.2. However, the EEO Office may further an investigation regarding such allegation or complaint when said action is deemed necessary to ensure compliance with the ISP's EEO policies and procedures.
- V.I. Complaints made outside of the internal EEO process
 - V.I.1. Internal grievances
 - V.I.1.a. When any employee complains of employment discrimination (including harassment, sexual harassment, and retaliation) through a grievance under the state of Illinois Personnel Code, a collective bargaining agreement, or an internal agency grievance mechanism, the EEO Officer shall be notified of the grievance no later than the time it reaches the level of the Director.
 - V.I.1.b. The EEO Officer shall attend the grievance hearing at that level either as the hearing officer or as a consultant to the hearing officer. If serving as a consultant to the hearing officer, the EEO Officer shall provide a written recommendation to the hearing officer regarding the disposition of the grievance within the timeframe applicable under the grievance mechanism, and the hearing officer shall consider the recommendation in determining the merits of the grievance.

V.I.2. External charges or complaints

V.I.2.a. In some circumstances, individuals may decide to proceed with litigation or file a charge with a federal or state agency prior to the Department completing an intake inquiry, ADR, an investigation, or releasing its decision.

V.I.2.b. If this occurs, the EEO Office will complete a limited review.

The Chief of the EEO Office will:

- V.I.2.b.1) Participate in any conference or hearing convened by an external agency with which the charge or complaint is filed.
- V.I.2.b.2) Prepare a written recommendation for the Director.
- V.I.2.b.3) Afford the Chief Legal Officer and Chief of the Office of Labor Relations and Special Projects the opportunity to review and comment upon the written recommendation prior to its submission to the Director.
- V.I.2.b.4) Suspend processing of the EEO allegation or complaint beyond that described in this section.

V.J. Confidentiality

V.J.1. All employees with respect to harassing conduct, discrimination, harassment, or retaliation incidents and complaints will observe strict confidentiality. The EEO Office will share information only with those who specifically need to have knowledge of the incident, allegation or complaint to achieve the objectives of this directive.

V.J.2. The sharing of information related to an allegation, complaint, intake inquiry, limited review, ADR, or investigation (including information related to the existence of an allegation, complaint, or EEO process, as well as the scheduling or content of interviews or meetings) is prohibited. Any such disclosure or failure to maintain confidentiality may be considered in performance evaluations and/or result in disciplinary action or other personnel actions, as determined by the Director.

V.J.3. A complainant who requests copies of his/her EEO file may only be given copies of any correspondence directed to the complainant and copies of the case summary, determination, and recommendation. When release of the case summary, determination, and recommendation would otherwise unnecessarily compromise a witness' right to confidentiality, the EEO Office will redact information, as needed, prior to release.

V.J.4. Sworn statements obtained and reports created as part of an intake inquiry, ADR, limited review or investigation will not be released during the course of the intake inquiry, ADR, limited review, or investigation. A witness who provides a sworn statement may request a copy of the statement upon the closing of the case. Should such request be granted, the confidentiality requirements of this policy will apply to the statement and information contained therein.

V.J.5. Information obtained in the course of an intake inquiry, ADR, limited review, or investigation will be used consistent with this policy and will only be disclosed for other administrative or judicial proceedings as required by law or rule, or unless the aggrieved party/complainant and respondent/subject agree in writing that such disclosure be made.

V.J.6. No other dissemination of the content of EEO files is permissible unless required by law.

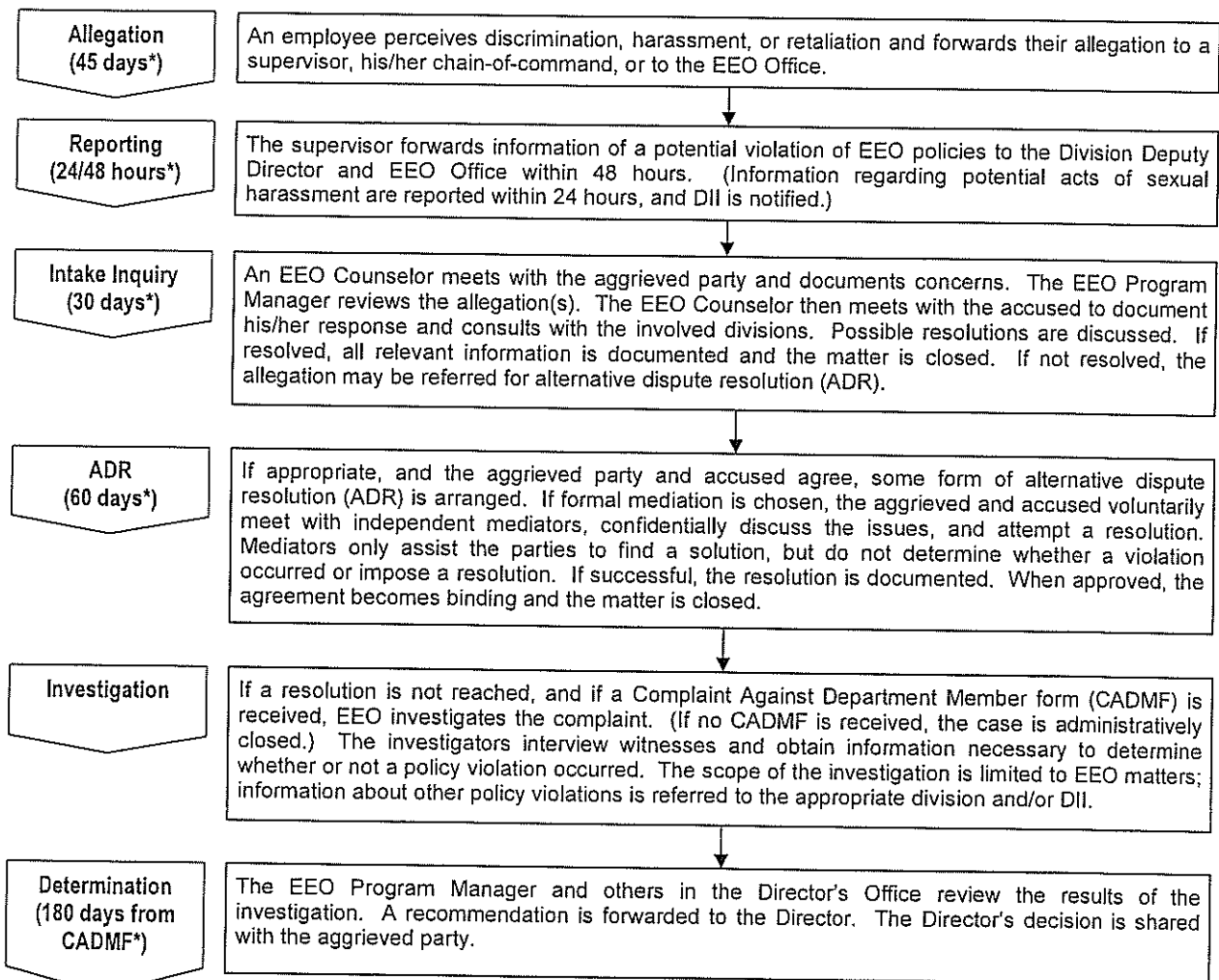
V.J.7. The EEO Office will provide annual statistical summaries of allegations and complaints to the ISP Public Information Officer for inclusion in the Department's annual report.

-End of Directive-

**ILLINOIS STATE POLICE DIRECTIVE
PER-032, DISCRIMINATION AND HARASSMENT
ADDENDUM 1, INTERNAL ALLEGATION AND COMPLAINT PROCESS**

| | |
|---|---|
| RESCINDS: New Addendum | REVISED: 11-22-2010 2010-112 |
| RELATED DOCUMENTS: PER-009, PER-030, PER-032, PER-033 | DISTRIBUTION: All employees, sworn and code Office/desk copy |
| RELATED CALEA STANDARDS: 26.1.3, 26.1.4, 26.1.5, 26.1.8, 31.2.3, 52.1.1, 52.1.2, 52.1.3, 52.2.1, 52.2.2, 52.2.3, 52.2.4, 52.2.5 | |

This chart shows an example of how an EEO allegation may typically be processed. Refer to the base directive for specific definitions, procedures, and responsibilities.



***NOTE:** Information regarding potential violations must be forwarded in accordance with PER-032, paragraph V). Other timeframes noted may be extended when warranted by special circumstances.

-End of Addendum-

**ILLINOIS STATE POLICE DIRECTIVE
PER-032, DISCRIMINATION AND HARASSMENT
ADDENDUM 2, STATE AND FEDERAL AGENCY CONTACT INFORMATION**

| | |
|---|---|
| RESCINDS: New Addendum | REVISED: 11-22-2010 2010-112 |
| RELATED DOCUMENTS: PER-009, PER-032, PER-033 | DISTRIBUTION: All employees, sworn and code Office/desk copy |
| RELATED CALEA STANDARDS: 26.1.3, 26.1.4, 26.1.5, 26.1.8, 31.2.3, 52.1.1, 52.1.2, 52.1.3, 52.2.1, 52.2.2, 52.2.3, 52.2.4, 52.2.5 | |

Equal Employment Opportunity (EEO) policies establish prompt, thorough, and effective procedures for responding to allegations and complaints of discrimination, harassment (including sexual harassment), and retaliation, so issues can be identified and, when necessary, remedied internally. However, nothing in these policies prevent an employee from contacting or reporting concerns to the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC).

You may find information regarding the EEOC complaint process online at <http://www.eeoc.gov/>. You may find information regarding the IDHR complaint process online at <http://www.state.il.us/dhr/>.

Contact information for these agencies:

Illinois Department of Human Rights
100 West Randolph, Suite 10-100
Chicago, Illinois 60601
Telephone (312) 814-6200
TTY (312) 263-1579

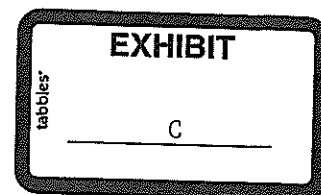
Illinois Department of Human Rights
222 South College, Room 101A
Springfield, Illinois 62704
Telephone (217) 785-5100
TTY (217) 785-5125

Illinois Department of Human Rights
Marion Regional Office Building
2309 West Main Street, Suite 112
Marion, Illinois 62959
Telephone (618) 993-7463

Equal Employment Opportunity Commission
500 West Madison Street, Suite 2800
Chicago, Illinois 60661
Telephone (312) 353-2713
Toll-free (800) 872-3362
TTY (312) 353-2421

Equal Employment Opportunity Commission
1222 Spruce Street, Room 8-100
St. Louis, Missouri 63103
Telephone (314) 539-7800
TTY (314) 425-6547

-End of Addendum-



ILLINOIS STATE POLICE DIRECTIVE PER-033, SEXUAL HARASSMENT

| | |
|--|---|
| RESCINDS: PER-033, 2010-113, revised 11-22-2010. | REVISED: 05-07-2015 2015-034 |
| RELATED DOCUMENTS: PER-009, PER-030, PER-032, PER-103, ROC-002 | RELATED CALEA STANDARDS: 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)**

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| RESCINDS: PER-033, 2010-113, revised 11-22-2010. | REVISED: 05-07-2015 2015-034 |
| RELATED DOCUMENTS: PER-009, PER-030, PER-032 | RELATED CALEA STANDARDS: 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 me 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

Addendum 1, Governor's Executive Order Number 16 (1999)

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**

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|--|--|
| RESCINDS: PER-033, 2010-113, revised 11-22-2010. | REVISED: 05-07-2015 2015-034 |
| RELATED DOCUMENTS: PER-009, PER-030, PER-032 | RELATED CALEA STANDARDS: 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-