

## ILLINOIS STATE POLICE DIRECTIVE PER-009, EQUAL EMPLOYMENT OPPORTUNITY

<b>RESCINDS:</b> PER-009, 2015-033A, revised 10-24-2017.	<b>REVISED:</b> 01-24-2023 <span style="float: right;"><b>2023-137</b></span>
<b>RELATED DOCUMENTS:</b> PER-032, PER-033	<b>RELATED CALEA STANDARDS (6<sup>th</sup> Edition):</b> 26.1.3, 26.1.4, 26.1.5, 26.2.1, 26.2.2, 26.2.3, 26.2.4, 26.2.5, 26.3.1, 26.3.2, 31.1.1, 31.1.2, 31.2.1, 31.2.2, 31.2.3, 31.3.1, 31.3.2, 31.4.3, 31.4.7, 31.4.8, 33.8.1, 33.8.4, 34.1.3, 34.1.5, 35.1.1

### I. POLICY

The Illinois State Police (ISP) will:

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

- I.K. Ensure managers and supervisors recognize their responsibility for carrying out the spirit and intent of the EEO Program, including but not limited to the EEO Plan, and actively working to advance the program among the employees they supervise.
- I.L. Failure to comply with the policy and procedures established herein will be considered in employee performance evaluations as well as other personnel actions as determined by the Director.

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

## II. AUTHORITY

- II.A. 775 ILCS 5/1, et seq., "Illinois Human Rights Act"
- II.B. 29 U.S.C. 626, et seq., "Age Discrimination in Employment Act"
- II.C. 42 U.S.C. 12101, et seq., "Americans with Disabilities Act"
- II.D. 42 U.S.C. 2000e, et seq., "Civil Rights Act of 1964"
- II.E. Title 56, 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"
- II.G. Illinois Executive Order 2018-02, "Strengthening the State's Ethics Laws and Compliance"

## III. DEFINITIONS

**NOTE:** Refer to ISP Directives PER-032, "Discrimination and Harassment," and PER-033, "Sexual Harassment," for definitions of other terms related to EEO policies.

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

III.B. Alternative Dispute Resolution (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.C. Discrimination - an adverse employment action based on unlawful discrimination.

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

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

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

- III.G. Harassing Conduct - any conduct that may reasonably cause another person to feel offended, humiliated, intimidated, insulted, or ridiculed based on unlawful discrimination which does not rise to the level of harassment (as defined in this directive).
- III.H. Harassment - a form of discrimination that is unlawful under Title VII of the U.S. Civil Rights Act and the IHRA, which includes:
  - III.H.1. Sexual Harassment - any unwelcome sexual conduct, 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.
    - III.H.1.a. Quid Pro Quo Sexual Harassment
      - III.H.1.a.1) Submission to such conduct is, either explicitly or implicitly, a condition for receiving job benefits
      - III.H.1.a.2) Rejection of such conduct results in an adverse employment action
    - III.H.1.b. Hostile Work Environment
      - III.H.1.b.1) Such unwelcome and uninvited conduct that is unreciprocated is personally directed at a specific individual and is so severe or pervasive that it has the purpose or effect of unreasonably interfering with that individual's work performance or creates an intimidating, hostile, abusive, or offensive working environment.
      - III.H.1.b.2) Such unwelcome and uninvited conduct that is unreciprocated is not personally directed at anyone but is witnessed by employees within the workplace and is so severe or pervasive based upon such exposure that it has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, abusive, or offensive working environment.
  - III.H.2. Third Party Harassment - created when an individual who is not an employee of the Department harasses an employee or an employee witnesses the harassment.
  - III.H.3. 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 and harassment.
- III.I. Intake Inquiry - an examination conducted by the EEO office in an attempt to facilitate a prompt resolution to an allegation.
  - III.I.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.I.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, "Complaint and Disciplinary Investigations."
- III.J. Investigation - a formal inquiry conducted in accordance with ISP Directive PER-030, "Complaint and Disciplinary Investigations."
  - III.J.1. Any time the aggrieved party wishes to proceed with an investigation in lieu of the intake inquiry or ADR processes, the aggrieved party may complete form ISP 3-23, Complaint

Against Department Member (CADMF), and be notified of his/her right to pursue a formal complaint pursuant to ISP Directive PER-030, "Complaint and Disciplinary Investigations."

**NOTE:** This does not preclude the 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.

III.J.2. Investigations will be conducted in accordance with procedure as outlined in ISP Directive PER-030, "Complaint and Disciplinary Investigations." 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.

III.J.3. The Chief of the EEO Office will review the information and recommendation.

III.K. Limited Review - an examination conducted at the discretion of the Director by the EEO Investigative Personnel 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, "Complaints and Disciplinary Investigations."

III.L. Mediation - a voluntary process facilitated by persons unrelated to the issue whereby the aggrieved party and the respondent meet in an attempt to resolve certain discrimination, harassment, or retaliation allegations or complaints. Mediation is a form of ADR and is coordinated and/or facilitated by the EEO Office.

III.M. Protected Activity - includes, but is not limited to, having:

III.M.1. Requested a reasonable accommodation pursuant to the ADA

III.M.2. Reported harassing conduct, discrimination, harassment, or retaliation to the ISP, IDHR, Equal Employment Opportunity Commission (EEOC), or any other appropriate government agency.

III.M.3. Otherwise participated in the reasonable accommodation, intake inquiry, limited review, ADR, or investigation process

III.M.4. Otherwise opposed discriminatory practices when done lawfully and in accordance with ISP policy

III.N. 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.O. Unlawful Discrimination - race, color, religion, sex, sexual orientation, national origin, ancestry, citizenship status, disability, age, order of protection status, marital status, pregnancy, arrest record, conviction record, military status, and unfavorable discharge from military service.

#### IV. RESPONSIBILITIES

IV.A. Employees will:

IV.A.1. Encourage and assist qualified candidates to apply for employment or seek advancement with the Department.

IV.A.2. Comply with the procedures and requirements of the Department's rules, regulations, and directives related to equal employment opportunity.

- IV.A.3. Refer to ISP Directives PER-032, "Discrimination and Harassment," and PER-033, "Sexual Harassment," for specific definitions, responsibilities, and procedures related to discrimination, harassment (including sexual harassment), and retaliation.
- IV.B. Deputy Directors and their subordinate supervisors and managers will:
  - IV.B.1. Carry out the spirit and intent of the EEO Program, including but not limited to the EEO Plan, and actively work to advance the program among the employees they supervise.
  - IV.B.2. Ensure their subordinates have access to department EEO policies and are aware of their rights, responsibilities, and the process for resolving allegations and complaints related to EEO policies.
  - IV.B.3. Ensure they and their subordinates comply with all department EEO policies and procedures.
  - IV.B.4. Ensure that newly hired subordinates receive training in EEO policy coordinated through the EEO Office.
  - IV.B.5. Ensure decisions regarding recruitment, hiring, training, promotion, layoff, transfer, assignment, and awarding of benefits will be made following the principles and practices of EEO and without regard to unlawful discrimination.
  - IV.B.6. Upon request, distribute information outlining career opportunities, application procedures, and any other pertinent information relating to employment within the Department.
  - IV.B.7. Ensure each individual work unit conducting recruitment and selection activities maintains complete records of such activities including, but not limited to, a list of applicants and the selection or rejection decision.
  - IV.B.8. Make a specific effort to encourage employees to aspire to higher level positions and provide guidance in their efforts to acquire the necessary qualifications needed for advancement (as per the CMS Upward Mobility Program and 5 ILCS 390/1, et seq., the "Supported Employees Act").
  - IV.B.9. Investigate, report, and take corrective action with regard to alleged instances of discrimination and harassment in accordance with state and federal laws and applicable Department policies and procedures.
  - IV.B.10. Notify the EEO Office of any external reporting required of any division, work unit, or employee related to equal employment opportunity policies, demographic statistics, or specific allegations or complaints.
    - IV.B.10.a. Any questions received in any form, including by phone or mail, concerning the EEO Plan must be forwarded to the EEO Office; any information disseminated must receive prior approval from the EEO Office.
    - IV.B.10.b. Only the ISP Legal Office will respond to requests for information related to an external complaint.
  - IV.B.11. Ensure approval is received from the EEO Program Manager prior to the publishing or distribution of material under the label of EEO.
- IV.C. The EEO Program Manager will:
  - IV.C.1. Advise the Director with respect to EEO programs, policies, procedures, regulations, reports, and the agency's EEO Plan.
  - IV.C.2. Ensure a defensible EEO Plan, including, but not limited to, goals and objectives, is established and submitted to the Director for review and publication.

- IV.C.3. Design and implement reporting systems, as needed, for measuring the effectiveness of agency EEO programs, indicating need for remedial action, and determining the degree to which the agency's goals and objectives have been attained.
- IV.C.4. Evaluate the sufficiency of, and recommend improvement to, the EEO Plan and EEO programs, including recruiting, qualifications, hiring, promotion, and other employment policies, procedures, or practices, and report to the Director regularly and upon request.
  - IV.C.4.a. Report to the Director and the IDHR any policies, practices or qualifications that have an unequal impact by race, national origin (as required by IDHR rule), sex, or disability (or any other category that the IDHR may require by rule), or otherwise are inconsistent with state or federal law related to equal employment opportunity.
  - IV.C.4.b. Notify the Director when unable to resolve employment practices or conditions that may adversely impact persons on the basis of unlawful discrimination.
  - IV.C.4.c. Make changes in recruiting, qualifications, hiring, promotion, and other employment policies, or procedures to eliminate discriminatory practices.
  - IV.C.4.d. Report to the Director and, upon request, the IDHR on the progress of actions taken.
- IV.C.5. Assist in the recruitment of people in underrepresented classifications.
- IV.C.6. With the assistance of the ISP Legal Office and the Division of Internal Investigation (DII), inquire, investigate, respond, and/or monitor complaints of discrimination, sexual harassment, or requests for ADA reasonable accommodation.
  - IV.C.6.a. Make an aggrieved employee or applicant aware of his or her remedies under the IHRA.
  - IV.C.6.b. Serve as liaison between the ISP and external EEO enforcement authorities.
  - IV.C.6.c. Recommend appropriate actions to eliminate and remedy discriminatory practices.
  - IV.C.6.d. Recommend remedial or disciplinary action with respect to managerial or supervisory employees who have failed to cooperate fully with the EEO Plan or are in violation of EEO policies (ISP Directives PER-009, "Equal Employment Opportunity," PER-032, "Discrimination and Harassment," PER-033, "Sexual Harassment," PER-103, "Code Employee Disciplinary Rules," and ROC-002, "Rules of Conduct").
- IV.C.7. Report to the Director and set such rules and regulations as are necessary for the satisfactory administration of the official responsibilities of the EEO Office.
- IV.D. The DAC will:
  - IV.D.1. Establish procedures and rules that maintain the efficient and effective operation of the DAC, and will:
    - IV.D.1.a. Identify groups from which advisory representative members will be selected
    - IV.D.1.b. Recruit and select members of the DAC
    - IV.D.1.c. Meet regularly to conduct DAC business
    - IV.D.1.d. Review issues and suggestions brought to the DAC
    - IV.D.1.e. Make recommendations to the Director and Deputy Directors regarding issues related to maintaining a highly qualified and diverse workforce
    - IV.D.1.f. Maintain records of DAC activities

| Indicates new or revised items.

**-End of Directive-**