

1200 UNLAWFUL DISCRIMINATION; REASONABLE ACCOMMODATION; EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION: STATEMENT OF POLICY

.10 PURPOSE

The purpose of this Section 1200 and the other Sections in the 1200 series of the Manual (1200 series) is to identify IDES policies and related procedures in IDES employment, programs, and activities regarding: (a) unlawful discrimination; (b) reasonable accommodation; and, (c) equal employment opportunity and affirmative action. IDES is committed to providing employment, program, and service environments free of unlawful discrimination, harassment, and retaliation. To further this commitment, IDES is committed to providing EEO/EO training for new hires, employees, and management when possible given available resources.

.15 DEFINITIONS

Unless otherwise provided, the following terms have the following meanings for purposes of the 1200 series:

State and federal legal authority: Legal mandates including, without limitation, the Illinois Human Rights Act, Titles VI and VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, Section 188 of the Workforce Innovation and Opportunity Act of 2015, the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008, the Genetic Information Non-Disclosure Act of 2008, and all applicable rules, regulations, judicial orders and decrees, executive orders, and administrative orders, determinations, guidance, manuals, discussion letters, and guidelines.

Unlawful discrimination: Discrimination in violation of state and federal legal authority against a person based on the person's race, color, religion, sex, national origin, citizenship, age, disability, political affiliation or belief, unfavorable (except a dishonorable) discharge from military service, military status, ancestry, marital status, pregnancy, sexual orientation, genetic information, or any other lawfully protected personal characteristic. Unlawful discrimination includes **unlawful harassment**, **unlawful retaliation**, and refusal of *reasonable accommodation* (see definitions below).

Unlawful harassment: A form of unlawful discrimination where a person is harassed based on the person's race, color, religion, sex, national origin, citizenship, age, disability, political affiliation or belief, unfavorable (except a dishonorable) discharge from military service, military status, ancestry, marital status, sexual orientation, genetic information, or any other lawfully protected personal characteristic.

Unlawful retaliation: A form of unlawful discrimination where a person is retaliated against for: (i) opposing what the person believes to be unlawful discrimination; (ii) making a charge, filing a complaint, or testifying, assisting, or participating in an investigation, proceeding, or hearing regarding what the person believes to involve unlawful discrimination; or (iii) requesting, attempting to request, using, or attempting to use a reasonable accommodation. **Note:** A person may be disciplined up to and including discharge or termination or sanctioned if their opposition, participation, or request was unreasonable and done in bad faith.

Reasonable accommodation: See Section 1205 of this Manual for the definition of reasonable accommodation in connection with persons with known disabilities. See Section 1207 of this Manual for the definition of reasonable accommodation in connection with IDES employee religious practices. Refusal of reasonable accommodation is a form of unlawful discrimination.

Equal opportunity and affirmative action: The equal opportunity and affirmative action requirements applicable to IDES employment, programs, and services under state and federal legal authority.

EO Officer: The IDES Equal Opportunity/Equal Employment Opportunity Officer is appointed by the Director with the approval of the Illinois Department of Human Rights and manages the EEO/AA Office.

EEO/AA Office: The IDES Office of Equal Employment Opportunity/Affirmative Action and all related staff and agents.

.20 POLICY

It is IDES policy to fully comply with all state and federal legal authority that: (a) prohibits unlawful discrimination; (b) requires reasonable accommodation of known disabilities and employee religious practices; and, (c) promotes equal employment opportunity and affirmative action in connection with IDES employment, programs, services and activities.

Unlawful discrimination is prohibited in connection with the terms and conditions of IDES employment, including without limitation, work privileges and benefits, job actions, and personnel transactions (e.g., recruitment, examination, appointment, training, promotion, retention. (See Central Management Services (CMS) Personnel Rule 302.7090.) Unlawful discrimination is prohibited in connection with IDES programs, services and activities by, among other practices, ensuring meaningful access to all IDES clients. It is the responsibility of each IDES employee, agent, and contractor to refrain from unlawful discrimination.

Maintaining IDES employment, program, services, and activity environments in compliance with this policy is an essential component of IDES's mission. It is the right of each IDES employee, agent, and contractor to work in, and each IDES client to access IDES programs and services in, environments free from unlawful discrimination. The Department will aggressively pursue violations of this policy and the requirements of the 1200 series. A Department employee, agent, or contractor may be subject to discipline, up to and including discharge or termination, and a Department client or member of the public may be subject to sanctions, for committing any violation under the 1200 series.

Inquiries may be directed to the EO Officer and the EEO/AA Office at 33 South State Street, 10th Floor, Chicago, Illinois 60603, Voice: 312-793-9290 or 312-793-9350, Fax: 312-793-0302, TTY: 888-340-1007.

.30 RESPONSIBILITY OF MANAGERS AND SUPERVISORS

IDES managers and supervisors should be alert to the conduct of their staff and promote a professional environment by setting examples of appropriate conduct and dealing with unlawful discrimination as with all other forms of employee misconduct. Managers and supervisors are the first line of defense, often being the first to spot discriminatory, harassing, or retaliatory conduct and the first to receive complaints about that conduct. Managers and supervisors must report **all** complaints, allegations, and perceived incidents of unlawful discrimination to the EO Officer, even if the complaining party does not want to make a formal complaint. Managers and supervisors must take prompt action in coordination with the EO Officer and the EEO/AA Office to eliminate unlawful discrimination and must observe strict confidentiality on a "need to know" basis.

.40 EQUAL OPPORTUNITY/AFFIRMATIVE ACTION PLAN AND MONITORING

As set forth in the Department's Affirmative Action Plan approved by the Illinois Department of Human Rights, the EEO/AA Office works with the IDHS Human Resources Division and/or in conjunction with CMS to ensure affirmative recruitment to broaden the applicant pool in the classifications and for the organizational units in which few or no minorities, women, or disabled persons are currently employed.

Human Resource Management maintains the recruitment announcements and selection activities which include, but are not limited to, retention of all records contained in each individual's selection package. The selection package contains the applications (bids) for the position, documentation of the selection made as a result of any interviews, and the decision made regarding selection, copies of issued selection notices, and the acceptance or non-acceptance memorandum if prepared by the applicant, and the DHR-19 Hiring Monitor or DHR-20 Promotion Monitor Form, processed by the EO Officer or designee. (See Section 1203 of this Manual.)

The Department's EEO/AA monitoring focuses on selection or rejection decisions in filling vacancies and promotions. Department management shall work constructively with the EO Officer or designee to analyze problem areas in staffing or service with respect to equal opportunity and affirmative action and assists in providing definitive solutions.

.50 TRAINING

The Department is committed to train new hires and employees, including management, about the policies and related procedures specified in the 1200 series. The Department shall provide training consistent with available resources and may provide training in-house or through suitable outside sources (e.g., the Illinois Department of Human Rights; the Illinois Department of Central Management Services; etc.).

.60 REFERENCES

Title VII of the Civil Rights Act of 1964 (42 USC 2000e)

The Americans with Disabilities Act of 1990 (42 USC 12101)

The ADA Amendments Act of 2008 (42 USC 12101 Note)

Section 504 of the Rehabilitation Act of 1973 (29 USC 794)

The Genetic Information Non-Disclosure Act of 2008 (42 USC 2000ff)

The Pregnancy Discrimination Act of 1978 (42 USC 2000e(k))

The Age Discrimination in Employment Act of 1967 (29 USC 621)

Equal Pay Act of 1963 (29 USC 206(d))

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Parts 32 and of the regulations of the U.S. Department of Labor (29 CFR Parts 32 and 38)

The regulations of the U.S. Equal Opportunity Commission (29 CFR Parts 1600 - 1699)

The Illinois Human Rights Act of 1980 (775 ILCS 5/)

The regulations of the Department of Human Rights and the Human Rights Commission (56 Ill. Adm. Code Parts 2500-2540)

Section 302.790 of the Personnel Rules of the Department of Central Management Services (80 Ill. Adm. Code 302.790)

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 1202, Unlawful Harassment and Unlawful Retaliation, of the Procedures Manual

Section 1203, EEO/AA: Monitoring New Hires and Promotions, of the Procedures Manual

Section 1204, Monitoring Nondiscrimination and Equal Opportunity in Delivery of Employment Service and Unemployment Insurance Programs and Activities, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

Section 1206, Serving Clients with Limited English Proficiency (LEP), of the Procedures Manual

Section 1207, Reasonably Accommodating Religious Practices of IDES Employees and Prospective Employees, of the Procedures Manual

1201 EEO/EO COMPLAINT PROCEDURES

.10 BACKGROUND

This Section establishes procedures for processing, investigating, and mediating complaints of discrimination relating to IDES employment, programs, and activities submitted to the IDES Office of Equal Employment Opportunity/Affirmative Action by IDES employees, including job applicants, IDES clients, or members of the general public. The procedures are designed to comply with all applicable State and Federal legal authority (see Section 1200). This Section also provides information about filing complaints of discrimination with agencies outside IDES. Additional information about complaints of discrimination is included in the IDES “Equal Opportunity is the Law” poster, which is available in [English](#), [Polish](#), [Russian](#), and [Spanish](#).

Note: Complaints of discrimination received by IDES Employment Service staff are processed under subsection .30 below in conjunction with Section 7202 of this Manual.

The following definitions apply for purposes of this Section 1201:

Discrimination: (1) Unlawful discrimination as defined under applicable federal and state law and Section 1200 of this Manual; or (2) failure to provide reasonable accommodation under applicable federal and state law and Section 1205 of this Manual.

Discrimination Complaint: A complaint of *discrimination* under this Section relating to IDES employment, including but not limited to, the job application process, or IDES programs, services and activities.

Discrimination Complaint Process: The procedures for handling a *discrimination complaint* established under this Section.

EEO/AA: The EO Officer and EEO/AA Office as defined under Section 1200 of this Manual, as well as mediators utilized under Subsection .202 below.

Ethics Officer: The individual designated by the Director of IDES to serve as the Agency’s Ethics Officer pursuant to Section 20-23 of the State Officials and Employees Ethics Act.

Complainant: A person who alleges *discrimination* in a *discrimination complaint*.

Respondent: An entity or person who is alleged to be responsible for *discrimination* in a *discrimination complaint*.

.15 PARTICIPATION, COOPERATION, NON-RETALIATION, AND CONFIDENTIALITY

A person or entity participates in the discrimination complaint process if they are a complainant, a respondent, or if they attend interviews or meetings, provide information or documents, or assist in other way authorized by EEO/AA. EEO/AA may reject a Discrimination Complaint at any time if the complainant fails to participate in the discrimination complaint process as required by EEO/AA. Employees will be allowed to use paid work time as required and verified by EEO/AA to participate in the discrimination complaint process, including time for related travel.

Note: Employees are **not** allowed paid work time to file or otherwise participate in the processing of discrimination complaints filed with agencies outside IDES, including but not limited to the Equal Employment Opportunity Commission and the Illinois Department of Human Rights. (see subsection .50).

All IDES employees must cooperate with EEO/AA in its administration of the discrimination complaint process. An employee's duty to cooperate under this subsection does not restrict any rights or protections available to the employee under federal and state constitutions and laws. Failure to cooperate in the discrimination complaint process may lead to discipline up to and including discharge.

Participants in the discrimination complaint process may not be subjected to unlawful retaliation (see Section 1202) because of their participation, even if a Discrimination Complaint filed in good faith is unfounded or untimely. However, participants may be disciplined up to and including discharge or termination (if employees, agents, or contractors) or sanctioned if their participation was unreasonable and done in bad faith (see Subsection .40 below and Subsections 1200.20 and 1202.30 of this Manual).

All information, documents, records, and other materials obtained through the discrimination complaint process, including the identity of all participants, will be kept confidential to the extent possible, consistent with a fair determination of the issues and in accordance with applicable State and Federal legal authority (see Section 1200). Participants must not discuss or disclose a discrimination complaint or the related discrimination complaint process, including their participation, unless authorized to do so by EEO/AA or required to do so by State or Federal legal authority.

.20 DISCRIMINATION COMPLAINT PROCESSING

A discrimination complaint is considered filed under this Section on the date it is received by EEO/AA at 33 South State Street, 10th Floor, Chicago, Illinois 60603. The discrimination complaint, to be considered filed, shall bear the original signature of the complainant to be deemed filed. EEO/AA telephone numbers are: Voice: (312) 793-9290, Fax: (312) 793-0302, TTY: (888) 340-1007.

A discrimination complaint **must** be filed in writing with EEO/AA within **300 days** of the alleged discrimination. A discrimination complaint submitted to EEO/AA by fax will be considered filed on the date the fax is received if the original signed discrimination complaint is subsequently received by EEO/AA within the 300-day period. **EEO/AA does not have jurisdiction over and will not process any discrimination complaint filed after the 300-day period has expired.** A complainant may withdraw any portion or all of a discrimination complaint at any time by submission of a written notice of withdrawal to EEO/AA.

The IDES Ethics Officer shall immediately refer to the EO Officer any complaint that the Ethics Officer receives which alleges sexual harassment.

Note: A complainant may file a discrimination complaint with federal and state agencies outside IDES instead of or in addition to filing with EEO/AA (see Subsection .50 below for the names, addresses and filing deadlines of various outside agencies) or with the Ethics Officer. A complainant is **not** required to file a discrimination complaint with EEO/AA before filing one with an outside agency. The outside agency will assume jurisdiction of a discrimination complaint filed both with it and EEO/AA. In this case, EEO/AA will close the internal discrimination complaint process file and so notify the complainant in writing.

Note: IDES staff must advise clients and members of the general public who want to file discrimination complaints of their right to do so with EEO/AA and/or the U.S. Department of Labor, Civil Rights Center ("CRC") (see subsection .50), and must make available **both** the

[IDES External Discrimination Complaint Form \(EEO-6\) \(Spanish\)](#) and the CRC [Complaint Information Form - DL 1-2014a \(Spanish\)](#).

A discrimination complaint **must** be filed using the appropriate, signed and fully-completed IDES complaint form. IDES employees must use [IDES Internal Discrimination Complaint Form \(EEO-2\)](#), and IDES clients and members of the general public must use [IDES External Discrimination Complaint Form \(EEO-6\) \(Spanish\)](#). EEO/AA will reject a discrimination complaint if it is submitted orally or in a written form other than the appropriate, signed and fully-completed IDES complaint form. However, EEO/AA will accept a discrimination complaint submitted in any written form if it is submitted within the 300-day period and **all** the following additional requirements are satisfied:

1. The written complaint must be signed by the complainant and must include:
 - a. The complainant's name and address or another means of contacting the complainant;
 - b. The identity of the respondent; and,
 - c. A description of the allegations in adequate detail for EEO/AA to determine if it has jurisdiction, including if the complaint was filed on time, and whether the allegations, if true, would establish unlawful discrimination; **and**,
2. The appropriate signed and fully completed IDES complaint form is subsequently received by EEO/AA.

IDES managers and supervisors or the Ethics Officer must immediately forward to EEO/AA any written discrimination complaint with all attached documents in any form received by them or their staff. IDES managers shall refer to EEO/AA Office any complaints, whether written or oral, made by their staff that allege EEO/AA violations, including but not limited to, unequal treatment, hostile working environments and discrimination.

When EEO/AA receives a discrimination complaint it will issue a written statement to the complainant acknowledging receipt and notifying the complainant of the right to representation during the discrimination complaint process when possible (see Subsection .203 below).

When possible, EEO/AA will conduct a preliminary review of the discrimination complaint to determine whether: (1) EEO/AA has jurisdiction, including if it was filed on time; (2) it provides adequate detail to determine the identity of the complainant and Respondent(s); and (3) the allegations, if true, would establish Discrimination. EEO/AA may require the complainant to provide additional information or documentation.

If EEO/AA determines it does not have jurisdiction over all or any part of the discrimination complaint, EEO/AA should promptly, when possible, issue a written Notice of Lack of Jurisdiction to the complainant stating the reasons for the determination and notifying the complainant of the right to file a complaint with CRC within **30 days** of the date the Notice was received.

If EEO/AA determines it does have jurisdiction over all or any part of the discrimination complaint, EEO/AA should, when possible, issue a written statement to the complainant including a list of the issues raised in the discrimination complaint and for each issue a statement whether EEO/AA will accept the issue for investigation or reject the issue, and

the reasons for each rejection. The statement of issues should also notify the complainant of the right to elect a customary investigation under Subsection .201 below or alternative dispute resolution ("ADR") under Subsection .202 below as the method of investigation. This choice rests with the complainant and is binding once it is made; the complainant cannot choose one process and later switch to the other.

EEO/AA should use its best efforts to issue a written Notice of Final Action to the complainant within **90 days** of the date the discrimination complaint was filed, regardless of the choice of a Customary Investigation or ADR. The Notice of Final Action should include:

- For each issue raised in the discrimination complaint that was accepted by EEO/AA, a statement of either EEO/AA's decision on the issue and an explanation of the reasons for the decision, or a description of the way the parties resolved the issue; and
- A notice that the complainant has the right to file a complaint with CRC within **30 days** of the date on which he or she received the Notice of Final Action if he or she is dissatisfied with the final action.

If EEO/AA fails to issue a Notice of Final Action within 90 days of the date the discrimination complaint was filed, the complainant has the right to file a complaint with CRC within **30 days** of the expiration of the 90-day period, i.e., within **120 days** of the date the discrimination complaint was filed.

CRC Appeal Example 1. An employee files a discrimination complaint with EEO/AA on June 1. The 90th day from the date of filing is August 29. The employee receives a Notice of Final Action on July 17. A complaint with CRC must be filed by August 15 (30 days from the date the Notice of Final Action was received).

CRC Appeal Example 2. The same facts as above, except that a Notice of Final Action is not issued by August 29. A complaint with CRC must be filed by September 27 (30 days from the expiration of the 90-day period; 120 days from the date the discrimination complaint was filed).

CRC Appeal Example 3. The same facts as above, except that a Notice of Final Action is issued on September 25. A complaint with CRC still must be filed by September 27 (30 days from the expiration of the 90-day period; 120 days from the date the discrimination complaint was filed).

The EO Officer will conduct an initial review of a sexual harassment complaint within 10 business days of receipt of the complaint, or as soon as possible thereafter. If the EO Officer determines that a further investigation is warranted, the EO Officer shall complete the investigation within 30 days of receipt of the complaint, or as soon as possible thereafter.

.201 Customary Investigation

A Customary Investigation may be conducted by means such as interviews of the parties and witnesses, review of pertinent documents, meetings between EEO/AA and various parties, and other methods adopted by EEO/AA as guided by State and Federal legal authority. The scope of a Customary Investigation will be limited to the issues raised in the discrimination complaint that were accepted by EEO/AA. The objective of a Customary Investigation is to determine if there is substantial evidence to support any of the Discrimination allegations in the discrimination complaint that were accepted by EEO/AA.

If substantial evidence is found, EEO/AA will attempt to resolve the issues to the extent feasible and reasonable under the circumstances by holding informal negotiations with the interested parties, either separately or in any combination. Any resolution reached by the parties will be processed as an agreement reached under subsection .202.

All findings of substantial evidence and thereafter recommendations made by the EO Office, pursuant to its investigation, shall be sent to Labor Relations and the appropriate managerial authority to effectuate.

.202 Alternative Dispute Resolution (ADR)

The form of ADR available to a complainant is mediation. In mediation, a neutral mediator conducts necessary fact-finding and meets with the parties and others in an attempt to guide the parties to a resolution of the issues raised in the discrimination complaint that were accepted by EEO/AA. The mediator will prepare a written agreement setting out the terms and conditions of any resolution reached by the parties. A party who believes an agreement reached under this subsection has been breached may file a complaint with CRC within **30 days** of the date the party learned of the alleged breach.

.203 Right to Accompaniment, Advice, and Representation

Under the Illinois Human Rights Act (IHRA) and Federal regulations, an IDES employee who is a complainant or the subject of the proceeding may be accompanied, advised and represented in any meeting, conference, or other proceeding in the discrimination complaint process by an attorney licensed to practice law in Illinois or a representative of an employee organization whose membership is composed of employees of the State and of which the employee is a member. The IHRA provides that a representative other than an attorney may observe **but may not actively participate or advise the employee** during the course of the proceeding and provides that the right to representation shall not be construed to permit any person not licensed to practice law in Illinois to deliver any legal services or engage in any activities that would constitute the unauthorized practice of law.

Note: A collective bargaining agreement may provide additional or different rights to bargaining unit employees than those provided under this subsection.

The IHRA also requires that any representative of an IDES employee, including an attorney, may not use or reveal any information obtained during the course of a proceeding in the discrimination complaint process either during or after termination of the representation relationship without the consent of the complainant and any State employee who is the subject of the proceeding and pursuant to governing confidentiality rules and regulations. Intentional or reckless disclosure of information in violation of this duty constitutes a Class B misdemeanor.

IDES is not responsible for any fees or costs, including attorney's fees, incurred by or on behalf of an IDES employee as a result of any accompaniment, advice, or representation under this subsection.

.30 EMPLOYMENT SERVICE DISCRIMINATION COMPLAINTS

Under Section 7202 of this Manual, Employment Service Complaint System, a complaint of discrimination relating to the Employment Service on the basis of race, color, religion, national origin, sex, age, or disability received by IDES Employment Service personnel is

designated an ESR-EO Complaint. All ESR-EO Complaints must be forwarded to EEO/AA for handling in accordance with Section 7202. An ESR-EO Complaint against an employer shall be referred to the Equal Employment Opportunity Commission and/or the Illinois Department of Human Rights. An ESR-EO Complaint relating to Employment Service actions or omissions under federal regulations shall be processed as a discrimination complaint filed under this Section, except that it is also subject to the appeal and hearing provisions provided under Subsection 7202.424.

.40 FALSE AND FRIVOLOUS COMPLAINTS

A false and frivolous discrimination complaint is a discrimination complaint that is unreasonable and filed in bad faith. A person may be disciplined up to and including discharge or termination (if an employee, agent, or contractor) or sanctioned (if a client or member of the general public) for filing a false and frivolous complaint (see Subsections 1200.20 and 1202.30 of this Manual).

Note: A false and frivolous complaint is **not** a reasonable discrimination complaint filed in good faith that cannot be proved.

.50 RESOLUTION OUTSIDE IDES

A complainant may file a complaint or charge with an outside federal or state agency instead of, filing a discrimination complaint with EEO/AA. A complainant is **not** required to file a discrimination complaint with EEO/AA before filing a complaint or charge with an outside agency. A list of various outside federal and state agencies and their filing time frames is provided below.

Note: Filing a discrimination complaint with EEO/AA does **not** toll the time frame within which a complaint or charge must be filed with an outside agency, even if a discrimination complaint is pending with EEO/AA. Complainants are responsible for ensuring that their outside filings are within the pertaining time frames.

AGENCY	COMPLAINT FILING TIME FRAMES
Illinois Department of Human Rights 100 West Randolph, Suite 10-100 Chicago, Illinois 60601 (312) 814-6200 TTY: (866) 740-3953 or 535 W. Jefferson, 1 st Floor Springfield, Illinois 62702 (217) 785-5100 TTY: (866) 740-3953	Within 300 days of the alleged discrimination
U.S. Equal Employment Opportunity Commission 230 South Dearborn Chicago, Illinois 60604 Phone: 1-800-669-4000 TTY: 1-800-669-6820	Within 300 days of the alleged discrimination

AGENCY	COMPLAINT FILING TIME FRAMES
Director, Civil Rights Center U.S. Department of Labor 200 Constitution Avenue N.W., Rm. N-4123 Washington, D.C. 20210 Voice: (202) 693-6500 Fax: (202) 693-6505 Video Relay: (877) 709-5798 Email: CivilRightsCenter@dol.gov	Within 180 days of the alleged discrimination, unless a discrimination complaint is filed with EEO/AA, in which case a discrimination complaint may be filed with CRC either within 30 days of the date a Notice of Final Action is received or , if a Notice of Final Action is not issued within 90 days of the date the discrimination complaint was filed, within 30 days of the 90 th day, i.e., within 120 days of the date the discrimination complaint was filed.

The Illinois Department of Human Rights maintains the state sexual harassment and discrimination [website](#) and hotline: 1-877-236-7703 (Monday – Friday 8:30 a.m. to 5:00 p.m.).

.60 REFERENCES

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Section 20-23 of the State Officials and Employees Ethics Act (5 ILCS 430/20-23)

The Illinois Human Rights Act of 1980 (775 ILCS 5/)

Part 32 of the regulations of the U.S. Department of Labor (29 CFR Part 32)

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

Regulations of the U.S. Equal Opportunity Commission (29 CFR Parts 1600 - 1699)

Regulations of the Department of Human Rights and the Human Rights Commission (56 Ill. Adm. Code Parts 2500 - 2540)

Executive Order 2018-02

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action: Statement of Policy, of the Procedures Manual

Section 1202, Unlawful Harassment and Unlawful Retaliation, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

Section 5001, IBIS Claims Taking Process, of the Procedures Manual

Section 7202, Employment Service Complaint System, of the Procedures Manual

1202 UNLAWFUL HARASSMENT AND UNLAWFUL RETALIATION

.10 POLICY

In accordance with Section 1200 of this Manual, it is IDES policy to fully comply with all federal and state legal authority that requires IDES to maintain work, program, and activity environments free of unlawful harassment and unlawful retaliation, which are forms of unlawful discrimination. An IDES employee, agent, or contractor who engages in unlawful harassment or unlawful retaliation may be subject to discipline, up to and including discharge or termination. A person who harasses or threatens another may also be subject to criminal charges.

IDES managers and supervisors must report **all** complaints, allegations, and perceived incidents of unlawful harassment and unlawful retaliation to the Department's EO Officer (see subsection 1200.30 of this Manual) or the Ethics Officer. These complaints, allegations, and incidents must be reported even if the targeted person does not wish to make a formal complaint. The EO Officer is available to consult about unlawful harassment and unlawful retaliation issues; Voice: (312) 793-9290, Fax: (312) 793-0302, TTY: (888) 340-1007.

This Section focuses on unlawful harassment and unlawful retaliation in connection with IDES employment, although unlawful harassment and unlawful retaliation in connection with IDES programs and activities are also prohibited.

The IDES Ethics Officer shall immediately refer to the EO Officer any complaint that the Ethics Officer receives and which alleges sexual harassment.

.20 UNLAWFUL HARASSMENT

Unlawful harassment occurs when a person is harassed on the basis of a lawfully protected personal characteristic such as race, color, religion, sex, national origin, citizenship, age, disability, political affiliation or belief, unfavorable (except a dishonorable) discharge from military service, military status, ancestry, marital status, sexual orientation, or genetic information.

Unlawful harassment in employment generally results when, on an objective basis, harassment based on an employee's lawfully protected personal characteristic substantially interferes with the employee's work performance or creates an intimidating, hostile or offensive working environment. This form of harassment is known as a *hostile work environment*. (Sexual harassment includes additional forms of harassing conduct. See subsection .201 below). Courts have held that a hostile work environment exists when an employee's workplace is permeated with discriminatory intimidation, ridicule, and insult that on an objective basis are sufficiently severe or pervasive to alter the employee's conditions of employment. The Equal Employment Opportunity Commission (EEOC) offers a partial list of the kinds of harassing conduct that may contribute to a hostile work environment, e.g.:

- offensive jokes
- slurs
- epithets or name calling
- physical assaults or threats
- intimidation
- ridicule or mockery
- insults or put-downs
- offensive objects or pictures
- interference with work performance

Unlawful harassment of an IDES client may result from the same form of hostile environment (i.e., when, on an objective basis, harassment based on a client's lawfully protected personal characteristic substantially interferes with the client's use or enjoyment of an IDES program

or activity or creates an intimidating, hostile or offensive IDES program or activity environment).

.201 Sexual Harassment

Sexual harassment is a unique subset of unlawful harassment prohibited by both the IHRA and Title VII. An IDES employee, agent, or contractor who engages in sexual harassment not only may be disciplined and/or sanctioned by the Department, but under the IHRA may also be held personally liable for civil penalties and damages (see subsection .10 above regarding criminal charges).

The IHRA defines sexual harassment in employment as: Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

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

The definition of sexual harassment under Title VII is similar. Sexual harassment affects both sexes. Sexual harassment involves a man's harassment of a woman, a woman's harassment of a man and harassment between members of the same sex.

Examples of sexual harassment include employment actions under which:

- An employee is denied employment opportunities by a supervisor after rejecting the supervisor's sexual advance(s) or request(s) for sexual favors; and
- An employee is subjected to severe or pervasive conduct by co-workers because of his or her sex that substantially interferes with the employee's performance of his or her job.

Unwanted conduct that, if sufficiently severe or pervasive, may constitute sexual harassment includes but is not limited to:

- *Verbal:* Sexual innuendos and suggestive comments; sexual insults and threats; sexual humor such as jokes about sex, anatomy or sex-specific traits; sexual propositions and requests for dates, especially when repeated; and statements of a sexual nature about other persons, even when made outside of their presence.
- *Non-Verbal:* Sexually suggestive or insulting sounds such as whistling, catcalls, and "smacking" or kissing noises; leering; obscene gestures; and sexually suggestive bodily gestures.
- *Graphic:* Posters; signs; pin-ups; and pictures of a sexual nature.
- *Physical:* Touching, hugging or kissing, pinching, brushing the body, unwanted sexual acts, and sexual attacks.

- *Electronic:* E-mail, text/picture messages (sexting), Internet (e.g., on-line postings, blogs, instant messages, social networks, etc.), and cyber stalking.

While the most commonly recognized forms of sexual harassment often involve the types of conduct described above, non-sexual conduct can also constitute sexual harassment when that conduct is directed at the victim because of his or her sex. For example, a court found sexual harassment based on a hostile work environment when a female employee reported to work every day and found her tools stolen, her work station filled with trash, and her equipment disabled by male co-workers because they resented working with a woman.

The most severe and overt forms of sexual harassment are the easiest to recognize. On the other end of the spectrum, sexual harassment may involve conduct that a person does without an intent to sexually harass another. For example, phrases such as “honey,” “darling,” and “sweetheart” may seem innocent to the speaker, but may be unwanted by many employees who believe they are offensive, condescending, and damaging to their ability to perform their jobs professionally. As another example, what is meant as a compliment may be perceived as an unwanted sexual remark. The following three statements might be meant as compliments about the appearance of a coworker:

- “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 may often be perceived as an inoffensive compliment; the second statement may be perceived less so; and the third statement is the most likely one to be perceived as unwanted sexual comment. Every IDES employee must be aware that what may seem to them to be harmless or playful may in fact be unwanted sexual conduct. To avoid the possibility of sexual harassment charges, it is best to follow a course of conduct and speech that are sexually neutral and contain no sexual innuendo.

It would be appropriate for an employee to respond to what is perceived as sexual harassment targeted at him or her by directly and clearly expressing her or his objection to the unwelcome conduct to the harassing person(s) and ask that it stop. The message may be oral, but if the unwelcome conduct continues the employee may want to give the harassing person(s) subsequent messages in writing in a note or a memo. Other actions the employee may take are addressed in subsection .40 below.

.30 UNLAWFUL RETALIATION

Unlawful retaliation occurs when a person is subjected to retaliation for:

- Opposing what the person believes to be unlawful discrimination;
- Making a charge, filing a complaint, or testifying, assisting, or participating in an investigation, proceeding, or hearing regarding what the person believes to involve unlawful discrimination; or

- Requesting, attempting to request, using, or attempting to use a reasonable accommodation.

(See Section 1200 of this Manual for the definition of *unlawful discrimination* and Section 1205 for definitions of *reasonable accommodation*).

A person may not be subjected to any act of retaliation of any type because of the person's opposition, participation, or request as identified above. Retaliation is prohibited even when a person's opposition, participation, or request is ultimately rejected, denied, or unfounded. However, a person may be disciplined up to and including discharge or termination (if an employee, agent, or contractor) or sanctioned (if a client or member of the public) if their opposition, participation, or request was unreasonable and done in bad faith. (See subsections 1200.20 and 1201.40 of this Manual.)

.40 **RESPONDING TO UNLAWFUL HARASSMENT AND RETALIATION**

A person who either observes or believes she or he is the target of unlawful harassment or unlawful retaliation should deal with the incident(s) as directly and firmly as possible by clearly communicating her or his position to the offending person(s) and reporting the conduct to her or his supervisor, the Ethics Officer and the EO Officer. If the harassing or retaliating person is an employee's supervisor, the employee may report the conduct to the next level of supervision, the Ethics Officer and the EO Officer. A person may report unlawful harassment or unlawful retaliation even if the offending conduct is not directed at that person. A person may want to document each incident (what was said or done, by whom, the date, time, place, persons present, etc.). Documentation can be strengthened by records such as letters, notes, memos, and telephone messages.

A person may also file a formal complaint of unlawful harassment or unlawful retaliation with the EEO/AA Office, the Ethics Officer or an outside agency. (See Section 1201 of this Manual.)

The Illinois Department of Human Rights administers the State of Illinois Sexual Harassment Hotline:

- Hotline: 1-877-236-7703 (Monday – Friday 8:30 a.m. to 5:00 p.m.)
- Website: www.illinois.gov/sexualharassment

.50 **REFERENCES**

Title VII of the Civil Rights Act of 1964 (42 USC 2000e)

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Part 32 of the regulations of the U.S. Department of Labor (29 CFR Part 32)

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

Regulations of the U.S. Equal Opportunity Commission (29 CFR Parts 1600 - 1699)

The Illinois Human Rights Act of 1980 (775 ILCS Act 5)

Executive Order 2018-02

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action: Statement of Policy, of the Procedures Manual

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

1203 EEO/AA: MONITORING NEW HIRES AND PROMOTIONS

.10 BACKGROUND

Through its rulemaking powers contained in Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act (IHRA), the Department of Human Rights (DHR) mandates that each state agency shall implement a process to monitor its hiring and promotional transactions.

Note: Because of various reporting requirements of the Department of Central Management Services and the Department of Human Rights, "hiring" as used herein also includes both intra- and inter-agency transfers **and** the conversion of intermittent employees to full-time positions. The purpose of monitoring is to ensure the Department's compliance with its Equal Employment Opportunity/Affirmative Action Plan and to evaluate progress toward meeting the Plan's goals.

Section 2520.770 (h) of the DHR rules provides:

The Hiring Monitor (DHR-19) and the Promotion Monitor (DHR-20) established by the Department shall be completed by each agency and submitted as required to Central Management Services on all hires and promotions for all full-time permanent and part-time permanent employees, including trainees, provisional employees, and semi-automatic promotions pursuant to a collective bargaining agreement. On the applicable Monitor, the agency shall indicate the EEO job category and classifications of the position and whether it is an underutilized category. The Monitor shall also indicate the race, sex, whether disabled, and national origin of all persons considered for the position and of the candidate, and whether the candidate meets the affirmative action requirements for that category. If the candidate does not meet the affirmative action requirements for that category, a detailed explanation indicating the reasons for the selection must be completed by the selecting officer and attached to the Monitor. The agency EEO Officer, or designee, shall review and sign the Monitor, indicating concurrence or non-concurrence in the transaction. The EEO Officer or designee shall fully explain on the Monitor his/her reason for any non-concurrence. In all transactions, the agency Chief Executive Officer or designee shall sign and date the Monitor, indicating approval. Central Management Services **shall not complete** any hire or promotion transaction if the Monitor is not attached to the transaction, is not signed and dated by the EEO Officer or designee, is not approved and signed by the agency's Chief Executive Officer or designee, and is not signed and dated prior to the effective date of the candidate's hire or promotion. (Emphasis added)

The following procedures describe the process of monitoring new hires and promotions to ensure compliance with the above-cited procedure and the Department's Equal Employment Opportunity/Affirmative Action Plan.

.20 PROCEDURES FOR MONITORING NEW HIRES AND PROMOTIONS

Section or Bureau Manager or Designee

1. Once a decision is made to seek approval to fill a vacancy, completes an [e-PAR \(Personnel Action Request\)](#) and submits to Human Resource Management (HRM).

Human Resource Management Recruitment/Selection Staff

2. Once the e-PAR is approved, sends an email to EEO requesting a hiring or promotion Monitor, and provides a copy of all recruitment announcements (i.e., posting notice), if any, to the EO Officer **prior to posting**. (Includes any outreach recruitment

documentation.) If no recruitment announcement is posted (e.g., for vacancies subject to the Permanent Bid System), provides EEO with a copy of the selection list.

Equal Opportunity Officer or Designee

3. When a request for a monitor is received, determines the EEO job category and checks the current status of underutilization for the requested category in the DHR region of the work location where the position will function. This will be accomplished within two days, when possible.
4. After step 3 is completed, prepares the appropriate portion of the Monitor form indicating the posting and tracking numbers, position title and location, EEO category, and the salary grade for the requested position, as well as the status of underutilization based on the current Affirmative Action Plan and/or quarterly report.

Note: If there *is* underutilization of African Americans, Hispanics, Asians, Native Americans/Alaskans, Pacific Islanders, persons with disabilities and/or women in the affected EEO job category in the DHR region of the work location where the position will function, the Monitor will indicate the underutilized group(s).

5. Sends copies of the Monitor form to HRM selection/recruitment staff for each vacancy to be filled.

Human Resource Management Recruitment/Selection Staff

6. After a tentative selection is made, but *prior to* informing the candidate of his/her selection, submits the selection packet, which includes the Monitor form, to EEO.

Equal Opportunity Officer or Designee

7. Reviews the Monitor and selection packet to determine whether selected candidate assists the Department in meeting its affirmative action goals. If so, signs the Monitor "concurring" with the hire and returns it to HRM to proceed with the selection.
8. If the selection of a candidate does *not* assist the Department in meeting its affirmative action goals, may circle "not concur" on the Monitor form. However, if the reason stated for not meeting the Department's affirmative action goals is *acceptable*, signs the Monitor and forwards it to HRM. If the reason stated in the Monitor is *unacceptable*, notes reason for not concurring with the hire and returns the Monitor to HRM.

Human Resource Management Recruitment/Selection Staff

9. After the Monitor has been signed by the EO Officer or designee, notifies the candidate of the starting date. **Note:** The candidate shall not be notified of a starting date until the Monitor is signed.

.30 REFERENCES

Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act (775 ILCS 5/7-101(A) and 5/7-105(A))

Section 2520.770(h) of the rules of the Department of Human Rights (56 Ill. Adm. Code 2520.770(h))

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

1204 MONITORING NONDISCRIMINATION AND EQUAL OPPORTUNITY IN DELIVERY OF EMPLOYMENT SERVICE AND UNEMPLOYMENT INSURANCE PROGRAMS AND ACTIVITIES

.10 BACKGROUND

The nondiscrimination and equal opportunity requirements of Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) and Civil Rights Center, U.S. Department of Labor (CRC) regulations require the Department of Employment Security to conduct annual monitoring of compliance with nondiscrimination in the delivery of Employment Service and Unemployment Insurance programs and activities. This Section 1204 describes the process of monitoring the Department's compliance with these requirements, including review schedules and targeting criteria. Under CRC regulations, the WIOA nondiscrimination equal opportunity requirements include the unlawful discrimination, reasonable accommodation, and equal opportunity and affirmative action requirements of federal and state legal authority identified under Section 1200 of this Manual.

The current plan for compliance monitoring of IDES is to continuously monitor all local offices and all services, benefits, and programs provided in the areas of Employment Services and Unemployment Insurance. Compliance reviews are conducted, when possible, on an annual basis, according to a fixed, predetermined schedule or timetable.

Compliance reviews consist of statistical examinations of services provided (e.g., adjudication, claims taking, job referrals, placements, etc.) to discrete applicant groups (e.g., age, sex, ethnicity, and disability status) as well as on-site visits by an Equal Opportunity (EO) Compliance Monitor from the EEO/AA Office. The EO Compliance Monitor uses the Equal Employment Opportunity Compliance Review Guide when conducting on-site reviews.

.20 EMPLOYMENT SERVICE COMPONENT

The Equal Opportunity data requirements for Employment Service are found in Employment Service Program Letter No. 14-89, dated May 4, 1989. To this end, the Department contracts with America's Job Link Alliance to produce the Illinois Job Link (IJL) Reports, a computer system that produces statistical reports that measure service delivery to discrete applicant groups.

After the IJL statistical reports are analyzed and other reports, such as the UI/ES complaint logs (See Sections 1201, and 7202 of this Manual.) are reviewed, the EO Officer may identify local offices with a pattern of complaints and/or whose Employment Service statistical measures deviate from the norm with respect to such functions as job referrals and job placements.

Additionally, the IJL system enables the EO Officer to generate and produce reports of particular offices if they are requested by the CRC.

.30 UNEMPLOYMENT INSURANCE PROGRAM COMPONENT

The Equal Opportunity data collection requirements for Unemployment Insurance are set forth in Unemployment Insurance Program Letters Nos. 46-89 and 46-89, Change 1, dated May 4, 1989, and August 21, 1990, respectively. The program letters set forth the guidelines and regulations that the Department must follow in collecting (during the initial claims taking) and maintaining the data.

Review of the Unemployment Insurance program includes, but is not limited to, the number of claims processed, monetary and nonmonetary determinations, separation and non-separation issues, and appeals. The Unemployment Insurance Program Letters specify that no routine reporting of compliance reviews are required as data are submitted to CRC upon request. CRC may provide the Department prior notice before scheduling an on-site compliance review by requesting data for selected IDES local offices in advance.

.40 UNEMPLOYMENT INSURANCE APPEALS COMPONENT

UI Program Letter No. 46-89 requires the Department to collect UI data to detect any discriminatory practices in the delivery of UI services, including appeals. Unemployment Insurance appeals data are analyzed on a quarterly basis. Both lower and higher authority level appeals are analyzed to detect if discriminatory conduct might be occurring with regard to various racial, ethnic, gender, age, and disability populations.

The process of analyzing the total number of lower authority appeals involves reviewing decisions involving separations on such factors as voluntarily leaves and discharges for misconduct. Non-separation issues such as able and available, disqualifying income, refusal of suitable work, reporting requirements, and other issues are also reviewed. Allow rates (i.e., decisions in favor of claimants) and denial rates (i.e., decisions not in favor of claimants) are examined to discern if any significant population differences are present.

Pursuant to UI Program Letter No. 46-89, data collection for appeals is required for EO monitoring. For lower authority appeals, only separation decisions are monitored (voluntary leave, discharge, and other separation). For higher authority appeals, only decisions allowed and denied by applicant characteristics are monitored.

The appeals data are currently maintained in IBIS along with applicant characteristics (race/ethnic, age, gender, and disability). This data are used to produce the following two types of tables which will be reviewed for single claimant appeals.

.401 Lower Authority

1. Total number of lower authority appeals decisions made by the following:
 - a. Separation Issues: voluntary quits; discharges for misconduct; and others.
 - b. Non-Separation Issues: able and available and actively seeking work; disqualifying or deductible income; refusal of suitable work; reporting requirements; and others.
2. Total number of appeal decisions in favor of claimants.
3. Total number of appeal decisions not in favor of claimants.

.402 Higher Authority

1. Total number of higher authority appeal decisions made.
2. Total number of appeal decisions in favor of claimants.
3. Total number of appeal decisions not in favor of claimants.

.50 ON-SITE REVIEWS OF LOCAL OFFICES

The EO Compliance Monitor's on-site visits to IDES offices include, but are not limited to: observing intake and referral processes; interviewing local office staff; and determining the office's compliance with equal opportunity/equal employment opportunity directives, such as posting of required notices, etc. On-site visits to IDES local offices shall also be conducted to comply with requests from CRC for specific data on designated offices.

Additionally, it must be demonstrated that such compliance reviews are occurring and are ongoing. Such documentation must be kept on file in the event that it is requested by CRC. (See Section 1103 of this Manual for applicable retention periods.)

.60 REPORT AND CORRECTIVE ACTION PLAN

After completion of an on-site review, the EO Officer prepares a written summary of the conclusions and recommendations. A draft report is then submitted to the local office manager and appropriate upper level managers including the deputy director for their response and development of any needed corrective action plan. The corrective action plan should specify steps, responsible person(s), and due dates. The final report is submitted to the Director. The EO office will follow up to ensure corrective action is in place.

.70 REFERENCES

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Part 32 of the regulations of the U.S. Department of Labor (29 CFR Part 32)

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

Employment Service Program Letter No. 14-89, dated May 4, 1989

Unemployment Insurance Program Letter No. 46-89, dated August 16, 1989

Unemployment Insurance Program Letter No. 46-89, Change 1, dated August 21, 1990

Equal Employment Opportunity Compliance Review Guide

Section 1103, Retention and Disposal of IDES Records, of the Procedures Manual

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action Program: Statement of Policy, of the Procedures Manual

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

Section 7202, Employment Service Complaint System, of the Procedures Manual

1205 ACCOMMODATING INDIVIDUALS WITH DISABILITIES

.10 PURPOSE

To provide policies and procedures for providing reasonable accommodation to the known disabilities of qualified IDES employees, job applicants, and clients.

.20 POLICY STATEMENT OF REASONABLE ACCOMMODATION

It is the policy of the Illinois Department of Employment Security to comply with, among other state and federal laws, the Americans with Disabilities Act of 1990 (Titles I and II) (ADA), Americans with Disabilities Act Amendments Act of 2008, Environmental Barriers Act, Illinois Accessibility Code, Guide Dog Access Act, Illinois Information Technology Access Act, Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Illinois Human Rights Act (IHRA). IDES provides or allows reasonable accommodation upon request to the known disabilities of qualified IDES employees, job applicants, and clients unless a reasonable accommodation will impose an undue hardship on IDES operations. An individual must request reasonable accommodation and establish he or she has a qualifying physical or mental disability. Then, if a reasonable accommodation will not impose an undue hardship, IDES provides or allows a reasonable accommodation that will enable a qualified employee with a disability to perform the essential functions of his or her job, a qualified job applicant with a disability to participate in the hiring process, or a qualified client with a disability to participate in and enjoy the benefits of IDES programs, services, and activities.

A qualified individual with a disability may request a specific reasonable accommodation. The specific request will be considered, but the reasonable accommodation that is provided and/or allowed to the individual will be determined by the Department in its discretion. A qualified individual with a disability is not required to accept a particular reasonable accommodation, but rejection of a reasonable accommodation may jeopardize the individual's status as a qualified individual with a disability. A request for reasonable accommodation may be denied if the individual who requested the accommodation poses a direct threat to the health or safety of the individual or others. See subsection .50. A reasonable accommodation may be rescinded by the Department if it later proves to pose an undue hardship or a direct threat to the health or safety of the individual who requested accommodation or others, or if the accommodated individual no longer is a qualified individual with a disability or requires the accommodation.

Inquiries regarding this policy or requests for copies of the reasonable accommodation policy or processing procedures must be directed to the Equal Opportunity Officer, Office of Equal Employment Opportunity/Affirmative Action, 33 South State Street, 10th Floor, Chicago, Illinois 60603-2802, Voice 312-793-9290 /TTY 888-340-1007 /Fax 312-793-0302. Employees may also find relevant policies and procedures posted on its intranet site. (See subsections .30 through .70.)

.201 Definitions of Terms

The definitions of terms provided in the ADA include the following:

Direct Threat is a significant risk of substantial harm to the health or safety of the individual requesting accommodation or others that cannot be eliminated or reduced by reasonable accommodation.

Disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such impairment, or being regarded as having such an impairment.

Essential Job Functions are the fundamental job duties of a job and do not include the marginal functions of a job.

Qualified Individual with a Disability is any individual with a disability who with or without reasonable accommodation can perform the essential functions of the job the individual holds or desires or meets the essential eligibility requirements for receiving services or participating in programs or activities of a public entity.

Undue Hardship is an action requiring a significant difficulty or expense when considered considering such factors, including but not limited to, the nature and cost of the accommodation, the overall financial resources of the entity involved, the size of the entity, and the type of operations of the entity.

.202 Methods of Reasonable Accommodation

The following are some examples of methods that may be used to reasonably accommodate the disabilities of qualified individuals.

- Making existing facilities readily accessible to and usable by qualified individuals with disabilities
- The acquisition or modification of equipment or devices, appropriate adjustment of examinations, training materials, or policies, and the provision of qualified readers or interpreters.
- Modifications or adjustments to policies and procedures that enable a qualified individual with a disability to enjoy equal access to, participation in and the benefits and privileges of the jobs, hiring processes and programs, services, and activities of an entity.

.203 Designation of ADA Liaison

Each cost center manager designates a staff person as the ADA liaison, when possible. The ADA liaison assists qualified individuals with disabilities with filing requests for reasonable accommodation and complaints of discrimination based on their disabilities, including denials of requests for reasonable accommodation.

.30 PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATIONS

.301 Accommodating Employees with Disabilities

Qualified IDES employees with disabilities desiring accommodation shall request reasonable accommodation by completing [Form EEO-5, Request for Reasonable Accommodation](#), and [Form EEO-7, Physician's Medical Review for Reasonable Accommodation Request](#). The forms shall be submitted through proper channels to the EO Office for decision.

The original forms EEO-5 and EEO-7 shall be sent to: Equal Opportunity/Equal Employment Opportunity Officer, IDES Office of Equal Employment/Affirmative Action, 33 South State Street 10th Floor, Chicago, Illinois 60603-2802.

All requests for reasonable accommodation must be submitted to the EO Officer whether or not they require an expenditure of funds. The EO Officer shall review the request and make every reasonable effort to respond to the employee within 10 working days from the date the request is received by the EO Officer, when possible.

The EO Officer may require the submission of medical documentation to support the need for reasonable accommodation. The EO Officer may require an employee to undergo independent medical evaluation at IDES expense. All medical documents shall be maintained in a confidential EEO file.

EEO will consult with appropriate parties, individually or jointly, when making a determination regarding an accommodation. The appropriate parties may include, but are not necessarily limited to, management, Labor/Management Relations (LMR), Human Resource Management, collective bargaining unit representatives, Job Accommodation Network (JAN), Illinois Interagency Committee on Employees with Disabilities, and other state and federal resources. Personal and medical information shall be treated as confidential and will be shared only on a need-to-know basis.

After all necessary documentation has been submitted, the EEO Office will review the request and make a final decision. A written decision shall be issued to the requesting employee. If the accommodation request is approved, EEO will notify all relevant parties in order to implement the request, including but not limited to, Procurement, DoIT, HRM, and Labor Relations. If the request is denied, EEO will notify the requesting employee via a written decision which shall include the basis of the denial and his/her appeal rights.

An individual dissatisfied with the resolution of a reasonable accommodation request can ask the IDES Director to reconsider the decision. An individual appealing the decision to the Director must file his/her request within 10 business days of the date of the decision, when possible. Filing an appeal to the Director will not extend the time limits for initiating administrative, statutory, or collective bargaining claims.

IDES employees provided reasonable accommodation shall be granted a reasonable period during regular working hours to familiarize themselves with and to develop reasonable competency in the use of any new aids, equipment, or devices provided to them.

IDES has entered into an agreement with AFSCME concerning reasonable accommodation for employees with disabilities, the specific language of which is set forth in the IDES/AFSCME Supplemental Agreement.

.302 Accommodating Job Applicants with Disabilities

Qualified individuals with disabilities applying for jobs with IDES have the right to request reasonable accommodation which will enable them to participate in all aspects of the hiring process, including submission of employment applications and participation in the examination and interviewing process. It is permissible to ask a job applicant whether he or she will need a reasonable accommodation to participate in the hiring process. A qualified job applicant with a disability is entitled to a reasonable accommodation during the hiring process even if it appears it will not be possible to provide a reasonable accommodation enabling the job applicant to perform the essential functions of the job for which the applicant has applied.

Job applicants may request reasonable accommodations in writing. The EO Officer or ADA Coordinator shall assist with the completion of reasonable accommodation request forms in order to process and document the request. Provision of auxiliary aids and services for individuals with impaired vision and/or hearing under subsection .40 may be initially approved by a manager. The original documents shall be forwarded to the EO Officer with copies retained with the application. Except for auxiliary aids and

services under subsection .40 initially approved by a manager, the EO Officer shall determine whether or not to grant the request, and shall make every reasonable effort to provide a response to the job applicant within five working days following the EO Officer's receipt of the request, when possible.

.303 Accommodating Clients with Disabilities

Qualified individuals with disabilities have the right to request reasonable accommodations which will enable them to participate in and enjoy the benefits of IDES programs, services, and activities in an equal and meaningful way.

IDES clients may request reasonable accommodation in writing. The EO Officer or ADA Coordinator shall assist with the completion of reasonable accommodation request forms in order to process and document the request. Provision of auxiliary aids and services for individuals with impaired vision and/or hearing under subsection .40 may be initially approved by a manager. The original documents shall be forwarded to the EO Officer with copies retained with the cost center. Except for auxiliary aids and services under subsection .40 initially approved by a manager, the EO Officer shall determine whether or not to grant the request, and shall make every reasonable effort to provide a response to the IDES client within five working days following the EO Officer's receipt of the request, when possible.

.304 Acquisition of Equipment or Devices

The equipment and devices that IDES will provide as a reasonable accommodation do not include personal use items needed to conduct daily activities such as hearing aids and eyeglasses. For individuals who are visually impaired, equipment or devices that may be provided include, but are not limited to, such items as adaptive computer hardware and software, electronic visual aids, braille devices, talking calculators, magnifiers, audio recordings, and braille material.

The EO Officer may consult with the Procurement Division to obtain vendor, cost, and specifications prior to ordering accommodation equipment. Procurement will assist EEO with ordering equipment using the procedures described in Section 3010, "Procurement of Goods and Services," of this Manual. The order request submitted by EEO will be charged to the cost center from which the request originated. If the equipment or device to be purchased is in the information technology category, the EO Officer may consult with DoIT regarding cost and specifications. The agency IT Coordinator will submit requests for IT equipment to DoIT through an Equipment Service Request (ESR) form and link. All reasonable accommodation requests will be flagged as such in the comment field for tracking purposes (e.g., reasonable accommodation request).

Requests for telecommunications equipment are routed through the agency's Telecom Coordinator, who will submit requests to Central Management Services and DoIT using the [Telephone Service Request form](#). (Telecom purchases are billed to IDES through the telephone bill.) **Note:** In rare instances (e.g., CMS cannot process the request because of budget or resource issues), telecom purchases may be made through the usual internal SAP process, beginning with entering a shopping cart (obligation request) by EEO.

Once ordered, Procurement, DoIT, or Telecom will notify EEO, by email, once the accommodation items are ordered, and will notify EEO of the anticipated delivery date following creation of the purchase order. EEO will, in turn, notify the requesting employee, by email, of the anticipated delivery date. Upon delivery, the equipment will

be bar-coded by Office Services (if it meets the cost threshold as provided in Section 1101 of this Manual).

The cost center and/or employee receiving the accommodation item shall notify EEO that the accommodation item was received. EEO will follow up with an employee who has been provided equipment or a device as a reasonable accommodation to ensure that the accommodation meets that employee's needs. Normally, the follow-up will occur two or more weeks following delivery to allow the employee a reasonable period to adjust to and develop competency in the use of the new aids or devices provided.

Equipment or devices purchased for reasonable accommodation purposes for employees are considered assigned to the requesting employee rather than to the cost center to which the employee is currently assigned. The equipment or devices will follow the employee in the event of the employee's transfer following the procedures set forth in Section 1101 of this Manual. EEO may reclaim the equipment or devices or transfer the equipment or devices to another employee upon request if the initial requester leaves the Department, is on an extended leave of absence, or no longer needs the accommodation. The cost center manager will notify EEO of any event that may result in the transfer or reassignment of the reasonable accommodation item. An OS-5 will need to be prepared by the cost center managers, when equipment is transferred or reassigned. Accommodation equipment cannot be transferred or reassigned to another employee without the express authorization from EEO. Cost center managers must notify EEO immediately if any equipment becomes available.

.305 Use of Space Heaters

Qualified IDES employees with disabilities whose physician recommends the use of a space heater as an accommodation shall request such accommodation by completing form EEO-5, Request for Reasonable Accommodation, and Form EEO-7, Physician's Medical Review for Reasonable Accommodation Request. The forms shall be submitted through proper channels through the EEO Office for decision. Refer to subsection .301 for proper submission of the forms and for procedures for providing reasonable accommodations. Space heater requests must be approved by CMS. The IDES EEO Office will process the request with CMS and inform the requesting employee of the final decision.

Once the EEO Office issues a written decision regarding the space heater accommodation request, CMS will be notified through a Space Heater Request Form. EEO must provide CMS with the employee's EEO-7, or an equivalent doctor's statement, with the form. CMS will then conduct an assessment of the employee's office or work area before approving the use of a space heater there. If CMS approves the use of the space heater in the employee's work area, they will notify the employee and EEO Office. The EEO Office will then issue an amended decision referencing CMS's approval or denial of the use of the space heater. The employee's manager will also be notified of the decision regarding the use of the space heater.

.40 AUXILIARY AIDS AND SERVICES FOR INDIVIDUALS WITH IMPAIRED VISION/ HEARING

This subpart explains what auxiliary aids and services are available to IDES employees, job applicants, and clients with impaired vision or hearing, and how to obtain them.

As stated in the notice, [Equal Opportunity is the Law](#), auxiliary aids and services are available upon request to individuals with disabilities. Such auxiliary aids include, but are not limited to, sign language interpreters, readers, taped texts, or other effective methods to

communicate with persons with impaired vision or hearing enabling them to perform the essential functions of their job, participate in the hiring process, or participate in the Department's programs, services, and activities, including the understanding of eligibility and appeal rights.

.401 Text Telephone (TTY)

A TTY is installed in the IDES Central Office to provide statewide service and referral information. TTY's are used by individuals with impaired hearing or speech to communicate by telephone. Persons with impaired hearing who have questions or require information about Department programs should be advised to use the TTY number: 888-340-1007 and /or 866-488-4016.

.402 Illinois Relay Center

The Illinois Relay Service, also known as Illinois Relay 711, is a 24 hour per day, seven days per week service which provides a communications link between persons using a text telephone and persons using a standard voice telephone. Specially trained communications assistants relay conversations over a telephone between a person using a TTY and a person using a voice telephone. This is done by communicating simultaneously with both parties. When the person using the voice telephone speaks, the communications assistant types the information to the TT caller. When the TT caller responds, the communications assistant voices the typed information to the person on the standard voice telephone. The Illinois Relay Service may be used by calling the following numbers: TT users dial 800-526-0844 or 711. Telephone users dial 800-526-0857 or 711. Spanish-to-Spanish users dial 800 501-0864 (TTY) or 711. More detailed instructions and additional telephone numbers are listed in the Illinois Relay Service [website](#).

When the communications assistant answers, the caller provides the telephone number and the type of call the caller wants to make. The communications assistant places the call and, when the person answers, tells the caller to begin the conversation. Inquiries about the Illinois Relay Center should be directed to the EO Officer at 312-793-9290.

.403 Interpreter's Services for the Hearing Impaired

When possible, the services of qualified volunteers should be used. If no volunteers are available, cost centers should consult the [Illinois Deaf and Hard of Hearing Commission](#) website to arrange for a qualified interpreter.

If necessary, other sources for sign language interpreters may be used such as those available through the Anixter Center - Chicago Hearing Society, 773-248-9121, and the Chicago Area Interpreter Referral Service, Voice 312895-4300. If necessary, the EO Officer is available to help in procuring interpreter services.

.404 Interpreter's Fees

The cost center and the interpreter shall mutually agree upon a fee. The local office should attempt to provide the required services at the most economical cost. The level of fees paid to interpreters for the hearing impaired depends upon whether such interpreters are certified by the National Registry of Interpreters for the Deaf and their certificate type.

Cost centers should use petty cash for payment of interpreter's fees if under the petty cash limit as provided in Section 3002 of this Manual. Fees at or over the petty cash limit require the cost center to enter a shopping cart to request services and may notify

the EO Officer by submitting Form EEO-3. (See subsection .401.) The cost center manager is responsible for submitting a monthly report to the EO Officer of all expenditures regarding the provision of auxiliary aids or services for persons with disabilities.

.405 Reporting of Auxiliary Aids or Services Requested and Provided

Whether or not an auxiliary aid or service to an individual with a disability is approved or denied, the cost center may complete Form [EEO-3, Auxiliary Aids Program Accessibility](#) and submit it to the EO Officer.

.50 INDIVIDUALS WITH DISABILITIES THAT POSE A DIRECT THREAT TO HEALTH AND SAFETY

An individual with a disability that poses a direct threat to the health or safety of him or herself or others is not a qualified individual with a disability and, therefore, is not entitled to reasonable accommodation for that disability. The definition of a direct threat is provided in subsection .201. For further information, contact the EO/EEO Officer at 312-793-9290.

.60 COMPLAINTS

IDES employees, IDES clients, and members of the general public may file complaints of discrimination, including discrimination based on disability, that relate to IDES programs, activities, or employment with the IDES Office of Equal Employment Opportunity/Affirmative Action under Section 1201 of this Manual, or with an outside federal or state agency. A list of various outside federal and state agencies and the time frames within which complaints must be filed with them is provided in subsection 1201.40 of this Manual.

Note: It is *not* necessary to file a complaint with the IDES Office of Equal Employment Opportunity/Affirmative Action before filing one with an outside agency.

.70 REFERENCES

The Americans with Disabilities Act of 1990 (42 USC 12101)

The Americans with Disabilities Act Amendments Act of 2008

Environmental Barriers Act (410 ILCS 25/1)

Illinois Accessibility Code (71 Ill. Adm. Code 400)

Illinois Information Technology Access Act (P.A. 095-0307)

Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794)

Title VII of the Civil Rights Act of 1964, as amended (42 USC 2000e)

The Illinois Human Rights Act (775 ILCS 5/1-101)

Parts 32, 33, and 38 of the regulations of the U.S. Department of Labor (29 CFR Part 32, 33, and 38)

Section 1.5 of the State Lawsuit Immunity Act (745 ILCS 5/1.5)

Part 2500 of the joint rules of the Department of Human Rights and the Human Rights Commission (56 Ill. Adm. Code 2500)

Section 1101, Property Control Procedures - Cost Center Managers, of the Procedures Manual

Section 1200, Equal Employment Opportunity/Affirmative Action Program: Statement of Policy and Complaint Investigation Procedure, of the Procedures Manual

Section 1201, Complaint Investigation Procedures, of the Procedures Manual

Section 1204, Monitoring Nondiscrimination in Delivery of Employment Service/Unemployment Insurance Functions, of the Procedures Manual

Section 3002, Petty Cash, of the Procedures Manual

Section 3003, Preparation of the NPS Request for the Obligation of Funds, of the Procedures Manual

Section 3010, Procurement of Goods and Services, of the Procedures Manual

Agreement between AFSCME and State of Illinois, Supplemental Agreement

1206 SERVING CLIENTS WITH LIMITED ENGLISH PROFICIENCY (LEP)

.10 BACKGROUND

Clients with limited English proficiency (LEP) must be provided meaningful access to IDES programs and services. An LEP client is a person whose primary language is a language other than English and who requires interpretation and/or translation services to meaningfully and effectively participate in IDES services, benefits, and programs.

Under no circumstances shall services to an LEP client be denied or unnecessarily delayed because of the client's limited English proficiency. Where possible, an LEP client should be served by a language option employee who speaks the client's language. When no on-site interpreter is available, the telephone-accessed language interpreter service vendor under contract with CMS and/or IDES should be used. (See subsection .204 for instructions on how to access and use the interpreter service.) Any refusal of IDES interpreter services by an LEP client should be noted in his or her file and reported, as soon as practicable, to the Equal Employment Officer.

.20 PROCEDURES FOR OBTAINING INTERPRETERS

.201 Posting Notices

Notices in Spanish and, where possible, any other language commonly used by LEP clients of a local office announcing the availability of free interpretation services should be conspicuously posted at the entrance to the local office. A language identification sign instructing an LEP client to point to his or her language should be conspicuously posted in the intake area.

.202 Identifying LEP Clients

Where possible, language option employees (i.e., bilingual employees) should serve as intake staff or as resource persons (See Section 5001 of this Manual). The intake staff person identifies LEP clients and determines the language in which the LEP client needs service. If that language is not readily apparent, it should be determined through use of either the language identification sign or language identification flash cards. If the language cannot be determined through use of the sign or flash cards, it should be determined through use of the language interpreter service.

.203 Selecting an Interpreter Service

IDES is responsible for providing official interpreters as needed by the Department's clients. IDES language option staff or interpreter services must be used as the primary means to interpret for the client. However, an LEP client may provide an interpreter of his or her choosing at his or her expense but only as a supplement and not in lieu of the interpreter services provided by IDES. Interpreter services are always available for use by the local office representative. The local office representative must not rely only on an interpreter provided by the LEP client. IDES reserves the right to require that client-supplied interpreters are certified or are otherwise qualified to provide interpreter services.

A local office may also use certified or otherwise qualified volunteer interpreters as a supplement, and not in lieu of, to the local office interpreter and interpreter services. When possible, volunteer interpreters should be provided with the same interpreter training as language option employees.

.204 Using Telephone-Accessed Interpreter Services
IDES Staff

1. Determines the preferred language.
2. If the client contact is in person, takes the client to a suitable location for a conference call by speaker telephone. If the client contact is by telephone, asks the caller to please stay on the line and places the caller on hold. If three-way calling is available at the staff person's workstation, obtains a second dial tone and adds the non-English speaking person to the line. If not, tells the client that he will be contacted (using the interpreter's conference capability) within the next few minutes.
3. Secures the services of an interpreter by following the instructions on the vendor's [instruction card](#).
4. When the interpreter comes on the line and, in the presence of the client, briefly explains the purpose of the interview.

.205 IBIS Entry

The representative must enter the LEP claimant's preferred language on the Personal Information screen using the LEP dropdown menu. If the preferred language is not in the list, select Other from the dropdown menu and then manually insert the preferred language in the Other field.

.30 DOCUMENT TRANSLATION SERVICES

Documents received in other languages from IDES clients can be translated by State designated vendors. Contact the Equal Employment Office, (312) 793-9290 for assistance and/or Procurement Division, (312) 793-0620, for current vendors. A vendor will be selected who can translate the document.

.40 REFERENCES

Executive Order 13166 dated 8/11/2000

Part 31 of the regulations of the U.S. Department of Labor, (29 CFR Part 31)

Part 38 of the regulations (Civil Rights Act of 1964) of the U.S. Department of Labor (29 CFR Part 38) (42 USC 2000)

Title VI, Prohibition against National Origin Discrimination as it Affects Persons with Limited English Proficiency, Federal Register: January 12, 2004, Volume 69, Number 7, Pages 1763-1768

Section 1113, IDES Telecommunications Equipment/Services, of the Procedures Manual

Section 5001, IBIS Claims Taking Process, of the Procedures Manual

Section 5022, Telephone Adjudication, of the Procedures Manual

1207 REASONABLY ACCOMMODATING RELIGIOUS PRACTICES OF IDES EMPLOYEES AND PROSPECTIVE EMPLOYEES

.10 POLICY STATEMENT

In accordance with Section 1200 of this Manual, it is Department policy to fully comply with all state and federal legal authority pertaining to reasonable accommodation of the religious observations, practices, and beliefs (collectively “religious practices”) of IDES employees and prospective employees in connection with IDES employment. This policy applies to all aspects of IDES employment, including, without limitation, hiring, promotion, and terms and conditions of employment. Refusal of reasonable accommodation under this Section may be a form of unlawful discrimination (see Section 1200 of this Manual).

IDES may deny a religious accommodation under this Section if it would not be reasonable. A religious accommodation would not be reasonable if: (1) the accommodation would impose **undue hardship**; or (2) the practice to be accommodated is **not religious**.

- *Undue Hardship. Significant difficulty, disruption, or expense with respect to IDES or other state of Illinois operations.* The factors IDES will consider when determining undue hardship include, without limitation: (i) whether a deferral of work hours would be inconsistent with the Department’s operational needs (see subsection .30 below); (ii) whether a religious practice would impose significant difficulty, disruption, or expense (see subsection .40 below); and (iii) whether a religious practice would imply the establishment of religion by the state (see subsection .50 below).
- *Non-Religious Practice.* Questions, if any, about whether a practice to be accommodated is religious will be resolved in accordance with pertaining legal authority. (See Section 1200 of the Manual).

.20 BACKGROUND

Under state law, Section 2-101(F) of the Illinois Human Rights Act (IHRA) defines religion with respect to employment as:

“[A]ll aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee’s or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.” (775 ILCS 5/2-101(F))

Section 2-102(E) of the IHRA requires public employers, such as IDES, to allow employees to defer their work hours, when consistent with operational needs, to times outside their regular work schedules to practice their religious beliefs during times within their regular work schedules. (See Section 2005.222 of this Manual.)

Under federal law, Section 701(j) of Title VII of the Civil Rights Act of 1964 (Title VII) provides a definition of religion with respect to employment similar to that of IHRA Section 2-101(F). In addition, the Equal Employment Opportunity Commission (EEOC) issued regulations under Section 701(j) that set accommodation guidelines similar to those of IHRA Section 2-101(F):

“Section 701(j) makes it an unlawful employment practice under [Title VII] for an employer to fail to reasonably accommodate the religious practices of an employee or prospective employee, unless the employer demonstrates that accommodation would result in undue hardship on the conduct of its business.” (29 CFR 1605.2(b)(1))

EEOC guidelines also address the definition of religious practice or belief:

“In most cases whether or not a practice or belief is religious is not at issue. However, in those cases in which the issue does exist, the [EEOC] will define religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.” (29 CFR 1605.1)

.30 DEFERRAL OF WORK HOURS TO PRACTICE RELIGIOUS BELIEFS

The Department addresses the requirement under Section 2-102(E) of the IHRA to defer an employee's work hours, when consistent with operational needs, in order to practice his or her religious beliefs in subsection 2005.222 of this Manual.

.40 RELIGIOUS PRACTICES THAT IMPOSE SIGNIFICANT DIFFICULTY, DISRUPTION, OR EXPENSE

The Department will determine that accommodating a religious practice in connection with IDES employment would be unreasonable if the religious practice would impose significant difficulty, disruption, or expense on IDES or other state of Illinois operations. This may be shown by factors including, without limitation:

- The nature of an accommodation considering the programs, services, and activities it would affect and the need to provide them effectively, efficiently, and without disruption, including whether it would cause health, safety, or security hazards or concerns;
- Disrupting the ability of other employees to perform their job duties, including employee productivity and morale; and,
- The cost of an accommodation considering funding available in connection with the accommodation.

Complaints about a particular religious practice are not required, but may be considered, when determining the reasonableness of an accommodation under this Section. Any questions about whether a particular religious practice would conform with this subsection should be directed to the IDES EEO Officer.

.401 Religious Dress and Grooming

The Department will accommodate employees' religious dress and grooming practices unless accommodation would disrupt IDES operations. For purposes of this subsection, disruption of IDES operations does not simply mean employee disgruntlement. There must be operational factors such as a disruption of employee productivity or an implied establishment of religion. (See subsection .50.)

Examples of religious dress and grooming practices that the Department may accommodate include, but are not limited to: (i) wearing religious clothing or articles (e.g., a Christian cross, a Muslim hijab (headscarf), a Sikh turban, a Sikh kirpan (symbolic miniature sword)); (ii) observing a religious prohibition against wearing certain garments (e.g., a Muslim, Pentecostal Christian, or Orthodox Jewish woman's practice of wearing modest clothing, and of not wearing pants or short skirts); and (iii) adhering to shaving or hair length observances (e.g., Sikh uncut hair and beard, Rastafarian dreadlocks, or Jewish peyes (sidelocks)). Accommodation of religious dress and grooming practices does not give employees a right to accommodation of secular dress and grooming practices.

.50 RELIGIOUS PRACTICES THAT IMPLY THE ESTABLISHMENT OF RELIGION

The First Amendment of the U.S. Constitution prohibits a state agency from allowing employees to engage in religious practices that could imply the establishment of religion by the state to agency customers or the general public. These restricted practices may involve the personal display of religious symbols or other forms of personal religious expression.

Complaints about a particular religious practice from IDES customers or the general public will be given serious consideration. Any questions about whether a particular religious practice would conform with this subsection .50 should be directed to the IDES EEO Officer.

.501 Christmas Displays

The Department may accommodate an employee's display in their personal work area of secular Christmas symbols (e.g., a Christmas tree, or images or figures of Santa Claus, a Santa Claus house, reindeer pulling Santa's sleigh, Christmas carolers, etc.) when reasonable under subsection .40, even if the display is visible to IDES customers or the general public. Any questions about a particular Christmas display should be directed to the IDES EO Officer.

.60 COMPLAINTS

IDES employees and prospective employees may file complaints of discrimination, including discrimination based on the failure to reasonably accommodate a religious practice, with the IDES EEO/AA Office under Section 1201 of this Manual, or with an outside federal or state agency. A list of various outside federal and state agencies and the time frames within which complaints must be filed with them is provided in subsection 1201.40 of this Manual.

It is not necessary to file a complaint with the IDES EEO/AA before filing one with an outside agency. Please see Subsection 1201 of this Manual for further guidance on how and where to file a complaint of discrimination, including, but not limited to, a complaint based on discrimination for failure to reasonably accommodate a religious practice.

.70 REFERENCES

Title VII of the Civil Rights Act of 1964 (42 USC 2000e)

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

The Illinois Human Rights Act (775 ILCS 5/1-101)

Part 1605 of the regulations of the U.S. Equal Opportunity Commission (29 CFR Part 1605)

Religious Garb and Grooming in the Workplace: Rights and Responsibilities, *U.S. Equal Opportunity Commission* (03/06/2014)

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action: Statement of Policy, of the Procedures Manual

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 2005, Time and Leave, of the Procedures Manual

1200 UNLAWFUL DISCRIMINATION; REASONABLE ACCOMMODATION; EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION: STATEMENT OF POLICY

.10 PURPOSE

The purpose of this Section 1200 and the other Sections in the 1200 series of the Manual (1200 series) is to identify IDES policies and related procedures in IDES employment, programs, and activities regarding: (a) unlawful discrimination; (b) reasonable accommodation; and, (c) equal employment opportunity and affirmative action. IDES is committed to providing employment, program, and service environments free of unlawful discrimination, harassment, and retaliation. To further this commitment, IDES is committed to providing EEO/EO training for new hires, employees, and management when possible given available resources.

.15 DEFINITIONS

Unless otherwise provided, the following terms have the following meanings for purposes of the 1200 series:

State and federal legal authority: Legal mandates including, without limitation, the Illinois Human Rights Act, Titles VI and VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, Section 188 of the Workforce Innovation and Opportunity Act of 2015, the Americans with Disabilities Act of 1990 (ADA), the ADA Amendments Act of 2008, the Genetic Information Non-Disclosure Act of 2008, and all applicable rules, regulations, judicial orders and decrees, executive orders, and administrative orders, determinations, guidance, manuals, discussion letters, and guidelines.

Unlawful discrimination: Discrimination in violation of state and federal legal authority against a person based on the person's race, color, religion, sex, national origin, citizenship, age, disability, political affiliation or belief, unfavorable (except a dishonorable) discharge from military service, military status, ancestry, marital status, pregnancy, sexual orientation, genetic information, or any other lawfully protected personal characteristic. Unlawful discrimination includes **unlawful harassment**, **unlawful retaliation**, and refusal of *reasonable accommodation* (see definitions below).

Unlawful harassment: A form of unlawful discrimination where a person is harassed based on the person's race, color, religion, sex, national origin, citizenship, age, disability, political affiliation or belief, unfavorable (except a dishonorable) discharge from military service, military status, ancestry, marital status, sexual orientation, genetic information, or any other lawfully protected personal characteristic.

Unlawful retaliation: A form of unlawful discrimination where a person is retaliated against for: (i) opposing what the person believes to be unlawful discrimination; (ii) making a charge, filing a complaint, or testifying, assisting, or participating in an investigation, proceeding, or hearing regarding what the person believes to involve unlawful discrimination; or (iii) requesting, attempting to request, using, or attempting to use a reasonable accommodation. **Note:** A person may be disciplined up to and including discharge or termination or sanctioned if their opposition, participation, or request was unreasonable and done in bad faith.

Reasonable accommodation: See Section 1205 of this Manual for the definition of reasonable accommodation in connection with persons with known disabilities. See Section 1207 of this Manual for the definition of reasonable accommodation in connection with IDES employee religious practices. Refusal of reasonable accommodation is a form of unlawful discrimination.

Equal opportunity and affirmative action: The equal opportunity and affirmative action requirements applicable to IDES employment, programs, and services under state and federal legal authority.

EO Officer: The IDES Equal Opportunity/Equal Employment Opportunity Officer is appointed by the Director with the approval of the Illinois Department of Human Rights and manages the EEO/AA Office.

EEO/AA Office: The IDES Office of Equal Employment Opportunity/Affirmative Action and all related staff and agents.

.20 POLICY

It is IDES policy to fully comply with all state and federal legal authority that: (a) prohibits unlawful discrimination; (b) requires reasonable accommodation of known disabilities and employee religious practices; and, (c) promotes equal employment opportunity and affirmative action in connection with IDES employment, programs, services and activities.

Unlawful discrimination is prohibited in connection with the terms and conditions of IDES employment, including without limitation, work privileges and benefits, job actions, and personnel transactions (e.g., recruitment, examination, appointment, training, promotion, retention. (See Central Management Services (CMS) Personnel Rule 302.7090.) Unlawful discrimination is prohibited in connection with IDES programs, services and activities by, among other practices, ensuring meaningful access to all IDES clients. It is the responsibility of each IDES employee, agent, and contractor to refrain from unlawful discrimination.

Maintaining IDES employment, program, services, and activity environments in compliance with this policy is an essential component of IDES's mission. It is the right of each IDES employee, agent, and contractor to work in, and each IDES client to access IDES programs and services in, environments free from unlawful discrimination. The Department will aggressively pursue violations of this policy and the requirements of the 1200 series. A Department employee, agent, or contractor may be subject to discipline, up to and including discharge or termination, and a Department client or member of the public may be subject to sanctions, for committing any violation under the 1200 series.

Inquiries may be directed to the EO Officer and the EEO/AA Office at 33 South State Street, 10th Floor, Chicago, Illinois 60603, Voice: 312-793-9290 or 312-793-9350, Fax: 312-793-0302, TTY: 888-340-1007.

.30 RESPONSIBILITY OF MANAGERS AND SUPERVISORS

IDES managers and supervisors should be alert to the conduct of their staff and promote a professional environment by setting examples of appropriate conduct and dealing with unlawful discrimination as with all other forms of employee misconduct. Managers and supervisors are the first line of defense, often being the first to spot discriminatory, harassing, or retaliatory conduct and the first to receive complaints about that conduct. Managers and supervisors must report **all** complaints, allegations, and perceived incidents of unlawful discrimination to the EO Officer, even if the complaining party does not want to make a formal complaint. Managers and supervisors must take prompt action in coordination with the EO Officer and the EEO/AA Office to eliminate unlawful discrimination and must observe strict confidentiality on a "need to know" basis.

.40 EQUAL OPPORTUNITY/AFFIRMATIVE ACTION PLAN AND MONITORING

As set forth in the Department's Affirmative Action Plan approved by the Illinois Department of Human Rights, the EEO/AA Office works with the IDHS Human Resources Division and/or in conjunction with CMS to ensure affirmative recruitment to broaden the applicant pool in the classifications and for the organizational units in which few or no minorities, women, or disabled persons are currently employed.

Human Resource Management maintains the recruitment announcements and selection activities which include, but are not limited to, retention of all records contained in each individual's selection package. The selection package contains the applications (bids) for the position, documentation of the selection made as a result of any interviews, and the decision made regarding selection, copies of issued selection notices, and the acceptance or non-acceptance memorandum if prepared by the applicant, and the DHR-19 Hiring Monitor or DHR-20 Promotion Monitor Form, processed by the EO Officer or designee. (See Section 1203 of this Manual.)

The Department's EEO/AA monitoring focuses on selection or rejection decisions in filling vacancies and promotions. Department management shall work constructively with the EO Officer or designee to analyze problem areas in staffing or service with respect to equal opportunity and affirmative action and assists in providing definitive solutions.

.50 TRAINING

The Department is committed to train new hires and employees, including management, about the policies and related procedures specified in the 1200 series. The Department shall provide training consistent with available resources and may provide training in-house or through suitable outside sources (e.g., the Illinois Department of Human Rights; the Illinois Department of Central Management Services; etc.).

.60 REFERENCES

Title VII of the Civil Rights Act of 1964 (42 USC 2000e)

The Americans with Disabilities Act of 1990 (42 USC 12101)

The ADA Amendments Act of 2008 (42 USC 12101 Note)

Section 504 of the Rehabilitation Act of 1973 (29 USC 794)

The Genetic Information Non-Disclosure Act of 2008 (42 USC 2000ff)

The Pregnancy Discrimination Act of 1978 (42 USC 2000e(k))

The Age Discrimination in Employment Act of 1967 (29 USC 621)

Equal Pay Act of 1963 (29 USC 206(d))

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Parts 32 and of the regulations of the U.S. Department of Labor (29 CFR Parts 32 and 38)

The regulations of the U.S. Equal Opportunity Commission (29 CFR Parts 1600 - 1699)

The Illinois Human Rights Act of 1980 (775 ILCS 5/)

The regulations of the Department of Human Rights and the Human Rights Commission (56 Ill. Adm. Code Parts 2500-2540)

Section 302.790 of the Personnel Rules of the Department of Central Management Services (80 Ill. Adm. Code 302.790)

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 1202, Unlawful Harassment and Unlawful Retaliation, of the Procedures Manual

Section 1203, EEO/AA: Monitoring New Hires and Promotions, of the Procedures Manual

Section 1204, Monitoring Nondiscrimination and Equal Opportunity in Delivery of Employment Service and Unemployment Insurance Programs and Activities, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

Section 1206, Serving Clients with Limited English Proficiency (LEP), of the Procedures Manual

Section 1207, Reasonably Accommodating Religious Practices of IDES Employees and Prospective Employees, of the Procedures Manual

1201 EEO/EO COMPLAINT PROCEDURES

.10 BACKGROUND

This Section establishes procedures for processing, investigating, and mediating complaints of discrimination relating to IDES employment, programs, and activities submitted to the IDES Office of Equal Employment Opportunity/Affirmative Action by IDES employees, including job applicants, IDES clients, or members of the general public. The procedures are designed to comply with all applicable State and Federal legal authority (see Section 1200). This Section also provides information about filing complaints of discrimination with agencies outside IDES. Additional information about complaints of discrimination is included in the IDES “Equal Opportunity is the Law” poster, which is available in [English](#), [Polish](#), [Russian](#), and [Spanish](#).

Note: Complaints of discrimination received by IDES Employment Service staff are processed under subsection .30 below in conjunction with Section 7202 of this Manual.

The following definitions apply for purposes of this Section 1201:

Discrimination: (1) Unlawful discrimination as defined under applicable federal and state law and Section 1200 of this Manual; or (2) failure to provide reasonable accommodation under applicable federal and state law and Section 1205 of this Manual.

Discrimination Complaint: A complaint of *discrimination* under this Section relating to IDES employment, including but not limited to, the job application process, or IDES programs, services and activities.

Discrimination Complaint Process: The procedures for handling a *discrimination complaint* established under this Section.

EEO/AA: The EO Officer and EEO/AA Office as defined under Section 1200 of this Manual, as well as mediators utilized under Subsection .202 below.

Ethics Officer: The individual designated by the Director of IDES to serve as the Agency’s Ethics Officer pursuant to Section 20-23 of the State Officials and Employees Ethics Act.

Complainant: A person who alleges *discrimination* in a *discrimination complaint*.

Respondent: An entity or person who is alleged to be responsible for *discrimination* in a *discrimination complaint*.

.15 PARTICIPATION, COOPERATION, NON-RETALIATION, AND CONFIDENTIALITY

A person or entity participates in the discrimination complaint process if they are a complainant, a respondent, or if they attend interviews or meetings, provide information or documents, or assist in other way authorized by EEO/AA. EEO/AA may reject a Discrimination Complaint at any time if the complainant fails to participate in the discrimination complaint process as required by EEO/AA. Employees will be allowed to use paid work time as required and verified by EEO/AA to participate in the discrimination complaint process, including time for related travel.

Note: Employees are **not** allowed paid work time to file or otherwise participate in the processing of discrimination complaints filed with agencies outside IDES, including but not limited to the Equal Employment Opportunity Commission and the Illinois Department of Human Rights. (see subsection .50).

All IDES employees must cooperate with EEO/AA in its administration of the discrimination complaint process. An employee's duty to cooperate under this subsection does not restrict any rights or protections available to the employee under federal and state constitutions and laws. Failure to cooperate in the discrimination complaint process may lead to discipline up to and including discharge.

Participants in the discrimination complaint process may not be subjected to unlawful retaliation (see Section 1202) because of their participation, even if a Discrimination Complaint filed in good faith is unfounded or untimely. However, participants may be disciplined up to and including discharge or termination (if employees, agents, or contractors) or sanctioned if their participation was unreasonable and done in bad faith (see Subsection .40 below and Subsections 1200.20 and 1202.30 of this Manual).

All information, documents, records, and other materials obtained through the discrimination complaint process, including the identity of all participants, will be kept confidential to the extent possible, consistent with a fair determination of the issues and in accordance with applicable State and Federal legal authority (see Section 1200). Participants must not discuss or disclose a discrimination complaint or the related discrimination complaint process, including their participation, unless authorized to do so by EEO/AA or required to do so by State or Federal legal authority.

.20 DISCRIMINATION COMPLAINT PROCESSING

A discrimination complaint is considered filed under this Section on the date it is received by EEO/AA at 33 South State Street, 10th Floor, Chicago, Illinois 60603. The discrimination complaint, to be considered filed, shall bear the original signature of the complainant to be deemed filed. EEO/AA telephone numbers are: Voice: (312) 793-9290, Fax: (312) 793-0302, TTY: (888) 340-1007.

A discrimination complaint **must** be filed in writing with EEO/AA within **300 days** of the alleged discrimination. A discrimination complaint submitted to EEO/AA by fax will be considered filed on the date the fax is received if the original signed discrimination complaint is subsequently received by EEO/AA within the 300-day period. **EEO/AA does not have jurisdiction over and will not process any discrimination complaint filed after the 300-day period has expired.** A complainant may withdraw any portion or all of a discrimination complaint at any time by submission of a written notice of withdrawal to EEO/AA.

The IDES Ethics Officer shall immediately refer to the EO Officer any complaint that the Ethics Officer receives which alleges sexual harassment.

Note: A complainant may file a discrimination complaint with federal and state agencies outside IDES instead of or in addition to filing with EEO/AA (see Subsection .50 below for the names, addresses and filing deadlines of various outside agencies) or with the Ethics Officer. A complainant is **not** required to file a discrimination complaint with EEO/AA before filing one with an outside agency. The outside agency will assume jurisdiction of a discrimination complaint filed both with it and EEO/AA. In this case, EEO/AA will close the internal discrimination complaint process file and so notify the complainant in writing.

Note: IDES staff must advise clients and members of the general public who want to file discrimination complaints of their right to do so with EEO/AA and/or the U.S. Department of Labor, Civil Rights Center ("CRC") (see subsection .50), and must make available **both** the

[IDES External Discrimination Complaint Form \(EEO-6\) \(Spanish\)](#) and the CRC [Complaint Information Form - DL 1-2014a \(Spanish\)](#).

A discrimination complaint **must** be filed using the appropriate, signed and fully-completed IDES complaint form. IDES employees must use [IDES Internal Discrimination Complaint Form \(EEO-2\)](#), and IDES clients and members of the general public must use [IDES External Discrimination Complaint Form \(EEO-6\) \(Spanish\)](#). EEO/AA will reject a discrimination complaint if it is submitted orally or in a written form other than the appropriate, signed and fully-completed IDES complaint form. However, EEO/AA will accept a discrimination complaint submitted in any written form if it is submitted within the 300-day period and **all** the following additional requirements are satisfied:

1. The written complaint must be signed by the complainant and must include:
 - a. The complainant's name and address or another means of contacting the complainant;
 - b. The identity of the respondent; and,
 - c. A description of the allegations in adequate detail for EEO/AA to determine if it has jurisdiction, including if the complaint was filed on time, and whether the allegations, if true, would establish unlawful discrimination; **and**,
2. The appropriate signed and fully completed IDES complaint form is subsequently received by EEO/AA.

IDES managers and supervisors or the Ethics Officer must immediately forward to EEO/AA any written discrimination complaint with all attached documents in any form received by them or their staff. IDES managers shall refer to EEO/AA Office any complaints, whether written or oral, made by their staff that allege EEO/AA violations, including but not limited to, unequal treatment, hostile working environments and discrimination.

When EEO/AA receives a discrimination complaint it will issue a written statement to the complainant acknowledging receipt and notifying the complainant of the right to representation during the discrimination complaint process when possible (see Subsection .203 below).

When possible, EEO/AA will conduct a preliminary review of the discrimination complaint to determine whether: (1) EEO/AA has jurisdiction, including if it was filed on time; (2) it provides adequate detail to determine the identity of the complainant and Respondent(s); and (3) the allegations, if true, would establish Discrimination. EEO/AA may require the complainant to provide additional information or documentation.

If EEO/AA determines it does not have jurisdiction over all or any part of the discrimination complaint, EEO/AA should promptly, when possible, issue a written Notice of Lack of Jurisdiction to the complainant stating the reasons for the determination and notifying the complainant of the right to file a complaint with CRC within **30 days** of the date the Notice was received.

If EEO/AA determines it does have jurisdiction over all or any part of the discrimination complaint, EEO/AA should, when possible, issue a written statement to the complainant including a list of the issues raised in the discrimination complaint and for each issue a statement whether EEO/AA will accept the issue for investigation or reject the issue, and

the reasons for each rejection. The statement of issues should also notify the complainant of the right to elect a customary investigation under Subsection .201 below or alternative dispute resolution ("ADR") under Subsection .202 below as the method of investigation. This choice rests with the complainant and is binding once it is made; the complainant cannot choose one process and later switch to the other.

EEO/AA should use its best efforts to issue a written Notice of Final Action to the complainant within **90 days** of the date the discrimination complaint was filed, regardless of the choice of a Customary Investigation or ADR. The Notice of Final Action should include:

- For each issue raised in the discrimination complaint that was accepted by EEO/AA, a statement of either EEO/AA's decision on the issue and an explanation of the reasons for the decision, or a description of the way the parties resolved the issue; and
- A notice that the complainant has the right to file a complaint with CRC within **30 days** of the date on which he or she received the Notice of Final Action if he or she is dissatisfied with the final action.

If EEO/AA fails to issue a Notice of Final Action within 90 days of the date the discrimination complaint was filed, the complainant has the right to file a complaint with CRC within **30 days** of the expiration of the 90-day period, i.e., within **120 days** of the date the discrimination complaint was filed.

CRC Appeal Example 1. An employee files a discrimination complaint with EEO/AA on June 1. The 90th day from the date of filing is August 29. The employee receives a Notice of Final Action on July 17. A complaint with CRC must be filed by August 15 (30 days from the date the Notice of Final Action was received).

CRC Appeal Example 2. The same facts as above, except that a Notice of Final Action is not issued by August 29. A complaint with CRC must be filed by September 27 (30 days from the expiration of the 90-day period; 120 days from the date the discrimination complaint was filed).

CRC Appeal Example 3. The same facts as above, except that a Notice of Final Action is issued on September 25. A complaint with CRC still must be filed by September 27 (30 days from the expiration of the 90-day period; 120 days from the date the discrimination complaint was filed).

The EO Officer will conduct an initial review of a sexual harassment complaint within 10 business days of receipt of the complaint, or as soon as possible thereafter. If the EO Officer determines that a further investigation is warranted, the EO Officer shall complete the investigation within 30 days of receipt of the complaint, or as soon as possible thereafter.

.201 Customary Investigation

A Customary Investigation may be conducted by means such as interviews of the parties and witnesses, review of pertinent documents, meetings between EEO/AA and various parties, and other methods adopted by EEO/AA as guided by State and Federal legal authority. The scope of a Customary Investigation will be limited to the issues raised in the discrimination complaint that were accepted by EEO/AA. The objective of a Customary Investigation is to determine if there is substantial evidence to support any of the Discrimination allegations in the discrimination complaint that were accepted by EEO/AA.

If substantial evidence is found, EEO/AA will attempt to resolve the issues to the extent feasible and reasonable under the circumstances by holding informal negotiations with the interested parties, either separately or in any combination. Any resolution reached by the parties will be processed as an agreement reached under subsection .202.

All findings of substantial evidence and thereafter recommendations made by the EO Office, pursuant to its investigation, shall be sent to Labor Relations and the appropriate managerial authority to effectuate.

.202 Alternative Dispute Resolution (ADR)

The form of ADR available to a complainant is mediation. In mediation, a neutral mediator conducts necessary fact-finding and meets with the parties and others in an attempt to guide the parties to a resolution of the issues raised in the discrimination complaint that were accepted by EEO/AA. The mediator will prepare a written agreement setting out the terms and conditions of any resolution reached by the parties. A party who believes an agreement reached under this subsection has been breached may file a complaint with CRC within **30 days** of the date the party learned of the alleged breach.

.203 Right to Accompaniment, Advice, and Representation

Under the Illinois Human Rights Act (IHRA) and Federal regulations, an IDES employee who is a complainant or the subject of the proceeding may be accompanied, advised and represented in any meeting, conference, or other proceeding in the discrimination complaint process by an attorney licensed to practice law in Illinois or a representative of an employee organization whose membership is composed of employees of the State and of which the employee is a member. The IHRA provides that a representative other than an attorney may observe **but may not actively participate or advise the employee** during the course of the proceeding and provides that the right to representation shall not be construed to permit any person not licensed to practice law in Illinois to deliver any legal services or engage in any activities that would constitute the unauthorized practice of law.

Note: A collective bargaining agreement may provide additional or different rights to bargaining unit employees than those provided under this subsection.

The IHRA also requires that any representative of an IDES employee, including an attorney, may not use or reveal any information obtained during the course of a proceeding in the discrimination complaint process either during or after termination of the representation relationship without the consent of the complainant and any State employee who is the subject of the proceeding and pursuant to governing confidentiality rules and regulations. Intentional or reckless disclosure of information in violation of this duty constitutes a Class B misdemeanor.

IDES is not responsible for any fees or costs, including attorney's fees, incurred by or on behalf of an IDES employee as a result of any accompaniment, advice, or representation under this subsection.

.30 EMPLOYMENT SERVICE DISCRIMINATION COMPLAINTS

Under Section 7202 of this Manual, Employment Service Complaint System, a complaint of discrimination relating to the Employment Service on the basis of race, color, religion, national origin, sex, age, or disability received by IDES Employment Service personnel is

designated an ESR-EO Complaint. All ESR-EO Complaints must be forwarded to EEO/AA for handling in accordance with Section 7202. An ESR-EO Complaint against an employer shall be referred to the Equal Employment Opportunity Commission and/or the Illinois Department of Human Rights. An ESR-EO Complaint relating to Employment Service actions or omissions under federal regulations shall be processed as a discrimination complaint filed under this Section, except that it is also subject to the appeal and hearing provisions provided under Subsection 7202.424.

.40 FALSE AND FRIVOLOUS COMPLAINTS

A false and frivolous discrimination complaint is a discrimination complaint that is unreasonable and filed in bad faith. A person may be disciplined up to and including discharge or termination (if an employee, agent, or contractor) or sanctioned (if a client or member of the general public) for filing a false and frivolous complaint (see Subsections 1200.20 and 1202.30 of this Manual).

Note: A false and frivolous complaint is **not** a reasonable discrimination complaint filed in good faith that cannot be proved.

.50 RESOLUTION OUTSIDE IDES

A complainant may file a complaint or charge with an outside federal or state agency instead of, filing a discrimination complaint with EEO/AA. A complainant is **not** required to file a discrimination complaint with EEO/AA before filing a complaint or charge with an outside agency. A list of various outside federal and state agencies and their filing time frames is provided below.

Note: Filing a discrimination complaint with EEO/AA does **not** toll the time frame within which a complaint or charge must be filed with an outside agency, even if a discrimination complaint is pending with EEO/AA. Complainants are responsible for ensuring that their outside filings are within the pertaining time frames.

AGENCY	COMPLAINT FILING TIME FRAMES
Illinois Department of Human Rights 100 West Randolph, Suite 10-100 Chicago, Illinois 60601 (312) 814-6200 TTY: (866) 740-3953 or 535 W. Jefferson, 1 st Floor Springfield, Illinois 62702 (217) 785-5100 TTY: (866) 740-3953	Within 300 days of the alleged discrimination
U.S. Equal Employment Opportunity Commission 230 South Dearborn Chicago, Illinois 60604 Phone: 1-800-669-4000 TTY: 1-800-669-6820	Within 300 days of the alleged discrimination

AGENCY	COMPLAINT FILING TIME FRAMES
Director, Civil Rights Center U.S. Department of Labor 200 Constitution Avenue N.W., Rm. N-4123 Washington, D.C. 20210 Voice: (202) 693-6500 Fax: (202) 693-6505 Video Relay: (877) 709-5798 Email: CivilRightsCenter@dol.gov	Within 180 days of the alleged discrimination, unless a discrimination complaint is filed with EEO/AA, in which case a discrimination complaint may be filed with CRC either within 30 days of the date a Notice of Final Action is received or , if a Notice of Final Action is not issued within 90 days of the date the discrimination complaint was filed, within 30 days of the 90 th day, i.e., within 120 days of the date the discrimination complaint was filed.

The Illinois Department of Human Rights maintains the state sexual harassment and discrimination [website](#) and hotline: 1-877-236-7703 (Monday – Friday 8:30 a.m. to 5:00 p.m.).

.60 REFERENCES

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Section 20-23 of the State Officials and Employees Ethics Act (5 ILCS 430/20-23)

The Illinois Human Rights Act of 1980 (775 ILCS 5/)

Part 32 of the regulations of the U.S. Department of Labor (29 CFR Part 32)

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

Regulations of the U.S. Equal Opportunity Commission (29 CFR Parts 1600 - 1699)

Regulations of the Department of Human Rights and the Human Rights Commission (56 Ill. Adm. Code Parts 2500 - 2540)

Executive Order 2018-02

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action: Statement of Policy, of the Procedures Manual

Section 1202, Unlawful Harassment and Unlawful Retaliation, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

Section 5001, IBIS Claims Taking Process, of the Procedures Manual

Section 7202, Employment Service Complaint System, of the Procedures Manual

1202 UNLAWFUL HARASSMENT AND UNLAWFUL RETALIATION

.10 POLICY

In accordance with Section 1200 of this Manual, it is IDES policy to fully comply with all federal and state legal authority that requires IDES to maintain work, program, and activity environments free of unlawful harassment and unlawful retaliation, which are forms of unlawful discrimination. An IDES employee, agent, or contractor who engages in unlawful harassment or unlawful retaliation may be subject to discipline, up to and including discharge or termination. A person who harasses or threatens another may also be subject to criminal charges.

IDES managers and supervisors must report **all** complaints, allegations, and perceived incidents of unlawful harassment and unlawful retaliation to the Department's EO Officer (see subsection 1200.30 of this Manual) or the Ethics Officer. These complaints, allegations, and incidents must be reported even if the targeted person does not wish to make a formal complaint. The EO Officer is available to consult about unlawful harassment and unlawful retaliation issues; Voice: (312) 793-9290, Fax: (312) 793-0302, TTY: (888) 340-1007.

This Section focuses on unlawful harassment and unlawful retaliation in connection with IDES employment, although unlawful harassment and unlawful retaliation in connection with IDES programs and activities are also prohibited.

The IDES Ethics Officer shall immediately refer to the EO Officer any complaint that the Ethics Officer receives and which alleges sexual harassment.

.20 UNLAWFUL HARASSMENT

Unlawful harassment occurs when a person is harassed on the basis of a lawfully protected personal characteristic such as race, color, religion, sex, national origin, citizenship, age, disability, political affiliation or belief, unfavorable (except a dishonorable) discharge from military service, military status, ancestry, marital status, sexual orientation, or genetic information.

Unlawful harassment in employment generally results when, on an objective basis, harassment based on an employee's lawfully protected personal characteristic substantially interferes with the employee's work performance or creates an intimidating, hostile or offensive working environment. This form of harassment is known as a *hostile work environment*. (Sexual harassment includes additional forms of harassing conduct. See subsection .201 below). Courts have held that a hostile work environment exists when an employee's workplace is permeated with discriminatory intimidation, ridicule, and insult that on an objective basis are sufficiently severe or pervasive to alter the employee's conditions of employment. The Equal Employment Opportunity Commission (EEOC) offers a partial list of the kinds of harassing conduct that may contribute to a hostile work environment, e.g.:

- offensive jokes
- slurs
- epithets or name calling
- physical assaults or threats
- intimidation
- ridicule or mockery
- insults or put-downs
- offensive objects or pictures
- interference with work performance

Unlawful harassment of an IDES client may result from the same form of hostile environment (i.e., when, on an objective basis, harassment based on a client's lawfully protected personal characteristic substantially interferes with the client's use or enjoyment of an IDES program

or activity or creates an intimidating, hostile or offensive IDES program or activity environment).

.201 Sexual Harassment

Sexual harassment is a unique subset of unlawful harassment prohibited by both the IHRA and Title VII. An IDES employee, agent, or contractor who engages in sexual harassment not only may be disciplined and/or sanctioned by the Department, but under the IHRA may also be held personally liable for civil penalties and damages (see subsection .10 above regarding criminal charges).

The IHRA defines sexual harassment in employment as: Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

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

The definition of sexual harassment under Title VII is similar. Sexual harassment affects both sexes. Sexual harassment involves a man's harassment of a woman, a woman's harassment of a man and harassment between members of the same sex.

Examples of sexual harassment include employment actions under which:

- An employee is denied employment opportunities by a supervisor after rejecting the supervisor's sexual advance(s) or request(s) for sexual favors; and
- An employee is subjected to severe or pervasive conduct by co-workers because of his or her sex that substantially interferes with the employee's performance of his or her job.

Unwanted conduct that, if sufficiently severe or pervasive, may constitute sexual harassment includes but is not limited to:

- *Verbal:* Sexual innuendos and suggestive comments; sexual insults and threats; sexual humor such as jokes about sex, anatomy or sex-specific traits; sexual propositions and requests for dates, especially when repeated; and statements of a sexual nature about other persons, even when made outside of their presence.
- *Non-Verbal:* Sexually suggestive or insulting sounds such as whistling, catcalls, and "smacking" or kissing noises; leering; obscene gestures; and sexually suggestive bodily gestures.
- *Graphic:* Posters; signs; pin-ups; and pictures of a sexual nature.
- *Physical:* Touching, hugging or kissing, pinching, brushing the body, unwanted sexual acts, and sexual attacks.

- *Electronic:* E-mail, text/picture messages (sexting), Internet (e.g., on-line postings, blogs, instant messages, social networks, etc.), and cyber stalking.

While the most commonly recognized forms of sexual harassment often involve the types of conduct described above, non-sexual conduct can also constitute sexual harassment when that conduct is directed at the victim because of his or her sex. For example, a court found sexual harassment based on a hostile work environment when a female employee reported to work every day and found her tools stolen, her work station filled with trash, and her equipment disabled by male co-workers because they resented working with a woman.

The most severe and overt forms of sexual harassment are the easiest to recognize. On the other end of the spectrum, sexual harassment may involve conduct that a person does without an intent to sexually harass another. For example, phrases such as "honey," "darling," and "sweetheart" may seem innocent to the speaker, but may be unwanted by many employees who believe they are offensive, condescending, and damaging to their ability to perform their jobs professionally. As another example, what is meant as a compliment may be perceived as an unwanted sexual remark. The following three statements might be meant as compliments about the appearance of a coworker:

- "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 may often be perceived as an inoffensive compliment; the second statement may be perceived less so; and the third statement is the most likely one to be perceived as unwanted sexual comment. Every IDES employee must be aware that what may seem to them to be harmless or playful may in fact be unwanted sexual conduct. To avoid the possibility of sexual harassment charges, it is best to follow a course of conduct and speech that are sexually neutral and contain no sexual innuendo.

It would be appropriate for an employee to respond to what is perceived as sexual harassment targeted at him or her by directly and clearly expressing her or his objection to the unwelcome conduct to the harassing person(s) and ask that it stop. The message may be oral, but if the unwelcome conduct continues the employee may want to give the harassing person(s) subsequent messages in writing in a note or a memo. Other actions the employee may take are addressed in subsection .40 below.

.30 UNLAWFUL RETALIATION

Unlawful retaliation occurs when a person is subjected to retaliation for:

- Opposing what the person believes to be unlawful discrimination;
- Making a charge, filing a complaint, or testifying, assisting, or participating in an investigation, proceeding, or hearing regarding what the person believes to involve unlawful discrimination; or

- Requesting, attempting to request, using, or attempting to use a reasonable accommodation.

(See Section 1200 of this Manual for the definition of *unlawful discrimination* and Section 1205 for definitions of *reasonable accommodation*).

A person may not be subjected to any act of retaliation of any type because of the person's opposition, participation, or request as identified above. Retaliation is prohibited even when a person's opposition, participation, or request is ultimately rejected, denied, or unfounded. However, a person may be disciplined up to and including discharge or termination (if an employee, agent, or contractor) or sanctioned (if a client or member of the public) if their opposition, participation, or request was unreasonable and done in bad faith. (See subsections 1200.20 and 1201.40 of this Manual.)

.40 **RESPONDING TO UNLAWFUL HARASSMENT AND RETALIATION**

A person who either observes or believes she or he is the target of unlawful harassment or unlawful retaliation should deal with the incident(s) as directly and firmly as possible by clearly communicating her or his position to the offending person(s) and reporting the conduct to her or his supervisor, the Ethics Officer and the EO Officer. If the harassing or retaliating person is an employee's supervisor, the employee may report the conduct to the next level of supervision, the Ethics Officer and the EO Officer. A person may report unlawful harassment or unlawful retaliation even if the offending conduct is not directed at that person. A person may want to document each incident (what was said or done, by whom, the date, time, place, persons present, etc.). Documentation can be strengthened by records such as letters, notes, memos, and telephone messages.

A person may also file a formal complaint of unlawful harassment or unlawful retaliation with the EEO/AA Office, the Ethics Officer or an outside agency. (See Section 1201 of this Manual.)

The Illinois Department of Human Rights administers the State of Illinois Sexual Harassment Hotline:

- Hotline: 1-877-236-7703 (Monday – Friday 8:30 a.m. to 5:00 p.m.)
- Website: www.illinois.gov/sexualharassment

.50 **REFERENCES**

Title VII of the Civil Rights Act of 1964 (42 USC 2000e)

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Part 32 of the regulations of the U.S. Department of Labor (29 CFR Part 32)

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

Regulations of the U.S. Equal Opportunity Commission (29 CFR Parts 1600 - 1699)

The Illinois Human Rights Act of 1980 (775 ILCS Act 5)

Executive Order 2018-02

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action: Statement of Policy, of the Procedures Manual

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

1203 EEO/AA: MONITORING NEW HIRES AND PROMOTIONS

.10 BACKGROUND

Through its rulemaking powers contained in Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act (IHRA), the Department of Human Rights (DHR) mandates that each state agency shall implement a process to monitor its hiring and promotional transactions.

Note: Because of various reporting requirements of the Department of Central Management Services and the Department of Human Rights, "hiring" as used herein also includes both intra- and inter-agency transfers **and** the conversion of intermittent employees to full-time positions. The purpose of monitoring is to ensure the Department's compliance with its Equal Employment Opportunity/Affirmative Action Plan and to evaluate progress toward meeting the Plan's goals.

Section 2520.770 (h) of the DHR rules provides:

The Hiring Monitor (DHR-19) and the Promotion Monitor (DHR-20) established by the Department shall be completed by each agency and submitted as required to Central Management Services on all hires and promotions for all full-time permanent and part-time permanent employees, including trainees, provisional employees, and semi-automatic promotions pursuant to a collective bargaining agreement. On the applicable Monitor, the agency shall indicate the EEO job category and classifications of the position and whether it is an underutilized category. The Monitor shall also indicate the race, sex, whether disabled, and national origin of all persons considered for the position and of the candidate, and whether the candidate meets the affirmative action requirements for that category. If the candidate does not meet the affirmative action requirements for that category, a detailed explanation indicating the reasons for the selection must be completed by the selecting officer and attached to the Monitor. The agency EEO Officer, or designee, shall review and sign the Monitor, indicating concurrence or non-concurrence in the transaction. The EEO Officer or designee shall fully explain on the Monitor his/her reason for any non-concurrence. In all transactions, the agency Chief Executive Officer or designee shall sign and date the Monitor, indicating approval. Central Management Services **shall not complete** any hire or promotion transaction if the Monitor is not attached to the transaction, is not signed and dated by the EEO Officer or designee, is not approved and signed by the agency's Chief Executive Officer or designee, and is not signed and dated prior to the effective date of the candidate's hire or promotion. (Emphasis added)

The following procedures describe the process of monitoring new hires and promotions to ensure compliance with the above-cited procedure and the Department's Equal Employment Opportunity/Affirmative Action Plan.

.20 PROCEDURES FOR MONITORING NEW HIRES AND PROMOTIONS

Section or Bureau Manager or Designee

1. Once a decision is made to seek approval to fill a vacancy, completes an [e-PAR \(Personnel Action Request\)](#) and submits to Human Resource Management (HRM).

Human Resource Management Recruitment/Selection Staff

2. Once the e-PAR is approved, sends an email to EEO requesting a hiring or promotion Monitor, and provides a copy of all recruitment announcements (i.e., posting notice), if any, to the EO Officer **prior to posting**. (Includes any outreach recruitment

documentation.) If no recruitment announcement is posted (e.g., for vacancies subject to the Permanent Bid System), provides EEO with a copy of the selection list.

Equal Opportunity Officer or Designee

3. When a request for a monitor is received, determines the EEO job category and checks the current status of underutilization for the requested category in the DHR region of the work location where the position will function. This will be accomplished within two days, when possible.
4. After step 3 is completed, prepares the appropriate portion of the Monitor form indicating the posting and tracking numbers, position title and location, EEO category, and the salary grade for the requested position, as well as the status of underutilization based on the current Affirmative Action Plan and/or quarterly report.

Note: If there *is* underutilization of African Americans, Hispanics, Asians, Native Americans/Alaskans, Pacific Islanders, persons with disabilities and/or women in the affected EEO job category in the DHR region of the work location where the position will function, the Monitor will indicate the underutilized group(s).

5. Sends copies of the Monitor form to HRM selection/recruitment staff for each vacancy to be filled.

Human Resource Management Recruitment/Selection Staff

6. After a tentative selection is made, but *prior to* informing the candidate of his/her selection, submits the selection packet, which includes the Monitor form, to EEO.

Equal Opportunity Officer or Designee

7. Reviews the Monitor and selection packet to determine whether selected candidate assists the Department in meeting its affirmative action goals. If so, signs the Monitor "concurring" with the hire and returns it to HRM to proceed with the selection.
8. If the selection of a candidate does *not* assist the Department in meeting its affirmative action goals, may circle "not concur" on the Monitor form. However, if the reason stated for not meeting the Department's affirmative action goals is *acceptable*, signs the Monitor and forwards it to HRM. If the reason stated in the Monitor is *unacceptable*, notes reason for not concurring with the hire and returns the Monitor to HRM.

Human Resource Management Recruitment/Selection Staff

9. After the Monitor has been signed by the EO Officer or designee, notifies the candidate of the starting date. **Note:** The candidate shall not be notified of a starting date until the Monitor is signed.

.30 REFERENCES

Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act (775 ILCS 5/7-101(A) and 5/7-105(A))

Section 2520.770(h) of the rules of the Department of Human Rights (56 Ill. Adm. Code 2520.770(h))

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

1204 MONITORING NONDISCRIMINATION AND EQUAL OPPORTUNITY IN DELIVERY OF EMPLOYMENT SERVICE AND UNEMPLOYMENT INSURANCE PROGRAMS AND ACTIVITIES

.10 BACKGROUND

The nondiscrimination and equal opportunity requirements of Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) and Civil Rights Center, U.S. Department of Labor (CRC) regulations require the Department of Employment Security to conduct annual monitoring of compliance with nondiscrimination in the delivery of Employment Service and Unemployment Insurance programs and activities. This Section 1204 describes the process of monitoring the Department's compliance with these requirements, including review schedules and targeting criteria. Under CRC regulations, the WIOA nondiscrimination equal opportunity requirements include the unlawful discrimination, reasonable accommodation, and equal opportunity and affirmative action requirements of federal and state legal authority identified under Section 1200 of this Manual.

The current plan for compliance monitoring of IDES is to continuously monitor all local offices and all services, benefits, and programs provided in the areas of Employment Services and Unemployment Insurance. Compliance reviews are conducted, when possible, on an annual basis, according to a fixed, predetermined schedule or timetable.

Compliance reviews consist of statistical examinations of services provided (e.g., adjudication, claims taking, job referrals, placements, etc.) to discrete applicant groups (e.g., age, sex, ethnicity, and disability status) as well as on-site visits by an Equal Opportunity (EO) Compliance Monitor from the EEO/AA Office. The EO Compliance Monitor uses the Equal Employment Opportunity Compliance Review Guide when conducting on-site reviews.

.20 EMPLOYMENT SERVICE COMPONENT

The Equal Opportunity data requirements for Employment Service are found in Employment Service Program Letter No. 14-89, dated May 4, 1989. To this end, the Department contracts with America's Job Link Alliance to produce the Illinois Job Link (IJL) Reports, a computer system that produces statistical reports that measure service delivery to discrete applicant groups.

After the IJL statistical reports are analyzed and other reports, such as the UI/ES complaint logs (See Sections 1201, and 7202 of this Manual.) are reviewed, the EO Officer may identify local offices with a pattern of complaints and/or whose Employment Service statistical measures deviate from the norm with respect to such functions as job referrals and job placements.

Additionally, the IJL system enables the EO Officer to generate and produce reports of particular offices if they are requested by the CRC.

.30 UNEMPLOYMENT INSURANCE PROGRAM COMPONENT

The Equal Opportunity data collection requirements for Unemployment Insurance are set forth in Unemployment Insurance Program Letters Nos. 46-89 and 46-89, Change 1, dated May 4, 1989, and August 21, 1990, respectively. The program letters set forth the guidelines and regulations that the Department must follow in collecting (during the initial claims taking) and maintaining the data.

Review of the Unemployment Insurance program includes, but is not limited to, the number of claims processed, monetary and nonmonetary determinations, separation and non-separation issues, and appeals. The Unemployment Insurance Program Letters specify that no routine reporting of compliance reviews are required as data are submitted to CRC upon request. CRC may provide the Department prior notice before scheduling an on-site compliance review by requesting data for selected IDES local offices in advance.

.40 UNEMPLOYMENT INSURANCE APPEALS COMPONENT

UI Program Letter No. 46-89 requires the Department to collect UI data to detect any discriminatory practices in the delivery of UI services, including appeals. Unemployment Insurance appeals data are analyzed on a quarterly basis. Both lower and higher authority level appeals are analyzed to detect if discriminatory conduct might be occurring with regard to various racial, ethnic, gender, age, and disability populations.

The process of analyzing the total number of lower authority appeals involves reviewing decisions involving separations on such factors as voluntarily leaves and discharges for misconduct. Non-separation issues such as able and available, disqualifying income, refusal of suitable work, reporting requirements, and other issues are also reviewed. Allow rates (i.e., decisions in favor of claimants) and denial rates (i.e., decisions not in favor of claimants) are examined to discern if any significant population differences are present.

Pursuant to UI Program Letter No. 46-89, data collection for appeals is required for EO monitoring. For lower authority appeals, only separation decisions are monitored (voluntary leave, discharge, and other separation). For higher authority appeals, only decisions allowed and denied by applicant characteristics are monitored.

The appeals data are currently maintained in IBIS along with applicant characteristics (race/ethnic, age, gender, and disability). This data are used to produce the following two types of tables which will be reviewed for single claimant appeals.

.401 Lower Authority

1. Total number of lower authority appeals decisions made by the following:
 - a. Separation Issues: voluntary quits; discharges for misconduct; and others.
 - b. Non-Separation Issues: able and available and actively seeking work; disqualifying or deductible income; refusal of suitable work; reporting requirements; and others.
2. Total number of appeal decisions in favor of claimants.
3. Total number of appeal decisions not in favor of claimants.

.402 Higher Authority

1. Total number of higher authority appeal decisions made.
2. Total number of appeal decisions in favor of claimants.
3. Total number of appeal decisions not in favor of claimants.

.50 ON-SITE REVIEWS OF LOCAL OFFICES

The EO Compliance Monitor's on-site visits to IDES offices include, but are not limited to: observing intake and referral processes; interviewing local office staff; and determining the office's compliance with equal opportunity/equal employment opportunity directives, such as posting of required notices, etc. On-site visits to IDES local offices shall also be conducted to comply with requests from CRC for specific data on designated offices.

Additionally, it must be demonstrated that such compliance reviews are occurring and are ongoing. Such documentation must be kept on file in the event that it is requested by CRC. (See Section 1103 of this Manual for applicable retention periods.)

.60 REPORT AND CORRECTIVE ACTION PLAN

After completion of an on-site review, the EO Officer prepares a written summary of the conclusions and recommendations. A draft report is then submitted to the local office manager and appropriate upper level managers including the deputy director for their response and development of any needed corrective action plan. The corrective action plan should specify steps, responsible person(s), and due dates. The final report is submitted to the Director. The EO office will follow up to ensure corrective action is in place.

.70 REFERENCES

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

Part 32 of the regulations of the U.S. Department of Labor (29 CFR Part 32)

Part 38 of the regulations of the U.S. Department of Labor (29 CFR Part 38)

Employment Service Program Letter No. 14-89, dated May 4, 1989

Unemployment Insurance Program Letter No. 46-89, dated August 16, 1989

Unemployment Insurance Program Letter No. 46-89, Change 1, dated August 21, 1990

Equal Employment Opportunity Compliance Review Guide

Section 1103, Retention and Disposal of IDES Records, of the Procedures Manual

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action Program: Statement of Policy, of the Procedures Manual

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 1205, Reasonably Accommodating Qualified Persons with Disabilities, of the Procedures Manual

Section 7202, Employment Service Complaint System, of the Procedures Manual

1205 ACCOMMODATING INDIVIDUALS WITH DISABILITIES

.10 PURPOSE

To provide policies and procedures for providing reasonable accommodation to the known disabilities of qualified IDES employees, job applicants, and clients.

.20 POLICY STATEMENT OF REASONABLE ACCOMMODATION

It is the policy of the Illinois Department of Employment Security to comply with, among other state and federal laws, the Americans with Disabilities Act of 1990 (Titles I and II) (ADA), Americans with Disabilities Act Amendments Act of 2008, Environmental Barriers Act, Illinois Accessibility Code, Guide Dog Access Act, Illinois Information Technology Access Act, Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Illinois Human Rights Act (IHRA). IDES provides or allows reasonable accommodation upon request to the known disabilities of qualified IDES employees, job applicants, and clients unless a reasonable accommodation will impose an undue hardship on IDES operations. An individual must request reasonable accommodation and establish he or she has a qualifying physical or mental disability. Then, if a reasonable accommodation will not impose an undue hardship, IDES provides or allows a reasonable accommodation that will enable a qualified employee with a disability to perform the essential functions of his or her job, a qualified job applicant with a disability to participate in the hiring process, or a qualified client with a disability to participate in and enjoy the benefits of IDES programs, services, and activities.

A qualified individual with a disability may request a specific reasonable accommodation. The specific request will be considered, but the reasonable accommodation that is provided and/or allowed to the individual will be determined by the Department in its discretion. A qualified individual with a disability is not required to accept a particular reasonable accommodation, but rejection of a reasonable accommodation may jeopardize the individual's status as a qualified individual with a disability. A request for reasonable accommodation may be denied if the individual who requested the accommodation poses a direct threat to the health or safety of the individual or others. See subsection .50. A reasonable accommodation may be rescinded by the Department if it later proves to pose an undue hardship or a direct threat to the health or safety of the individual who requested accommodation or others, or if the accommodated individual no longer is a qualified individual with a disability or requires the accommodation.

Inquiries regarding this policy or requests for copies of the reasonable accommodation policy or processing procedures must be directed to the Equal Opportunity Officer, Office of Equal Employment Opportunity/Affirmative Action, 33 South State Street, 10th Floor, Chicago, Illinois 60603-2802, Voice 312-793-9290 /TTY 888-340-1007 /Fax 312-793-0302. Employees may also find relevant policies and procedures posted on its intranet site. (See subsections .30 through .70.)

.201 Definitions of Terms

The definitions of terms provided in the ADA include the following:

Direct Threat is a significant risk of substantial harm to the health or safety of the individual requesting accommodation or others that cannot be eliminated or reduced by reasonable accommodation.

Disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of such impairment, or being regarded as having such an impairment.

Essential Job Functions are the fundamental job duties of a job and do not include the marginal functions of a job.

Qualified Individual with a Disability is any individual with a disability who with or without reasonable accommodation can perform the essential functions of the job the individual holds or desires or meets the essential eligibility requirements for receiving services or participating in programs or activities of a public entity.

Undue Hardship is an action requiring a significant difficulty or expense when considered considering such factors, including but not limited to, the nature and cost of the accommodation, the overall financial resources of the entity involved, the size of the entity, and the type of operations of the entity.

.202 Methods of Reasonable Accommodation

The following are some examples of methods that may be used to reasonably accommodate the disabilities of qualified individuals.

- Making existing facilities readily accessible to and usable by qualified individuals with disabilities
- The acquisition or modification of equipment or devices, appropriate adjustment of examinations, training materials, or policies, and the provision of qualified readers or interpreters.
- Modifications or adjustments to policies and procedures that enable a qualified individual with a disability to enjoy equal access to, participation in and the benefits and privileges of the jobs, hiring processes and programs, services, and activities of an entity.

.203 Designation of ADA Liaison

Each cost center manager designates a staff person as the ADA liaison, when possible. The ADA liaison assists qualified individuals with disabilities with filing requests for reasonable accommodation and complaints of discrimination based on their disabilities, including denials of requests for reasonable accommodation.

.30 PROCEDURES FOR PROVIDING REASONABLE ACCOMMODATIONS

.301 Accommodating Employees with Disabilities

Qualified IDES employees with disabilities desiring accommodation shall request reasonable accommodation by completing [Form EEO-5, Request for Reasonable Accommodation](#), and [Form EEO-7, Physician's Medical Review for Reasonable Accommodation Request](#). The forms shall be submitted through proper channels to the EO Office for decision.

The original forms EEO-5 and EEO-7 shall be sent to: Equal Opportunity/Equal Employment Opportunity Officer, IDES Office of Equal Employment/Affirmative Action, 33 South State Street 10th Floor, Chicago, Illinois 60603-2802.

All requests for reasonable accommodation must be submitted to the EO Officer whether or not they require an expenditure of funds. The EO Officer shall review the request and make every reasonable effort to respond to the employee within 10 working days from the date the request is received by the EO Officer, when possible.

The EO Officer may require the submission of medical documentation to support the need for reasonable accommodation. The EO Officer may require an employee to undergo independent medical evaluation at IDES expense. All medical documents shall be maintained in a confidential EEO file.

EEO will consult with appropriate parties, individually or jointly, when making a determination regarding an accommodation. The appropriate parties may include, but are not necessarily limited to, management, Labor/Management Relations (LMR), Human Resource Management, collective bargaining unit representatives, Job Accommodation Network (JAN), Illinois Interagency Committee on Employees with Disabilities, and other state and federal resources. Personal and medical information shall be treated as confidential and will be shared only on a need-to-know basis.

After all necessary documentation has been submitted, the EEO Office will review the request and make a final decision. A written decision shall be issued to the requesting employee. If the accommodation request is approved, EEO will notify all relevant parties in order to implement the request, including but not limited to, Procurement, DoIT, HRM, and Labor Relations. If the request is denied, EEO will notify the requesting employee via a written decision which shall include the basis of the denial and his/her appeal rights.

An individual dissatisfied with the resolution of a reasonable accommodation request can ask the IDES Director to reconsider the decision. An individual appealing the decision to the Director must file his/her request within 10 business days of the date of the decision, when possible. Filing an appeal to the Director will not extend the time limits for initiating administrative, statutory, or collective bargaining claims.

IDES employees provided reasonable accommodation shall be granted a reasonable period during regular working hours to familiarize themselves with and to develop reasonable competency in the use of any new aids, equipment, or devices provided to them.

IDES has entered into an agreement with AFSCME concerning reasonable accommodation for employees with disabilities, the specific language of which is set forth in the IDES/AFSCME Supplemental Agreement.

.302 Accommodating Job Applicants with Disabilities

Qualified individuals with disabilities applying for jobs with IDES have the right to request reasonable accommodation which will enable them to participate in all aspects of the hiring process, including submission of employment applications and participation in the examination and interviewing process. It is permissible to ask a job applicant whether he or she will need a reasonable accommodation to participate in the hiring process. A qualified job applicant with a disability is entitled to a reasonable accommodation during the hiring process even if it appears it will not be possible to provide a reasonable accommodation enabling the job applicant to perform the essential functions of the job for which the applicant has applied.

Job applicants may request reasonable accommodations in writing. The EO Officer or ADA Coordinator shall assist with the completion of reasonable accommodation request forms in order to process and document the request. Provision of auxiliary aids and services for individuals with impaired vision and/or hearing under subsection .40 may be initially approved by a manager. The original documents shall be forwarded to the EO Officer with copies retained with the application. Except for auxiliary aids and

services under subsection .40 initially approved by a manager, the EO Officer shall determine whether or not to grant the request, and shall make every reasonable effort to provide a response to the job applicant within five working days following the EO Officer's receipt of the request, when possible.

.303 Accommodating Clients with Disabilities

Qualified individuals with disabilities have the right to request reasonable accommodations which will enable them to participate in and enjoy the benefits of IDES programs, services, and activities in an equal and meaningful way.

IDES clients may request reasonable accommodation in writing. The EO Officer or ADA Coordinator shall assist with the completion of reasonable accommodation request forms in order to process and document the request. Provision of auxiliary aids and services for individuals with impaired vision and/or hearing under subsection .40 may be initially approved by a manager. The original documents shall be forwarded to the EO Officer with copies retained with the cost center. Except for auxiliary aids and services under subsection .40 initially approved by a manager, the EO Officer shall determine whether or not to grant the request, and shall make every reasonable effort to provide a response to the IDES client within five working days following the EO Officer's receipt of the request, when possible.

.304 Acquisition of Equipment or Devices

The equipment and devices that IDES will provide as a reasonable accommodation do not include personal use items needed to conduct daily activities such as hearing aids and eyeglasses. For individuals who are visually impaired, equipment or devices that may be provided include, but are not limited to, such items as adaptive computer hardware and software, electronic visual aids, braille devices, talking calculators, magnifiers, audio recordings, and braille material.

The EO Officer may consult with the Procurement Division to obtain vendor, cost, and specifications prior to ordering accommodation equipment. Procurement will assist EEO with ordering equipment using the procedures described in Section 3010, "Procurement of Goods and Services," of this Manual. The order request submitted by EEO will be charged to the cost center from which the request originated. If the equipment or device to be purchased is in the information technology category, the EO Officer may consult with DoIT regarding cost and specifications. The agency IT Coordinator will submit requests for IT equipment to DoIT through an Equipment Service Request (ESR) form and link. All reasonable accommodation requests will be flagged as such in the comment field for tracking purposes (e.g., reasonable accommodation request).

Requests for telecommunications equipment are routed through the agency's Telecom Coordinator, who will submit requests to Central Management Services and DoIT using the [Telephone Service Request form](#). (Telecom purchases are billed to IDES through the telephone bill.) **Note:** In rare instances (e.g., CMS cannot process the request because of budget or resource issues), telecom purchases may be made through the usual internal SAP process, beginning with entering a shopping cart (obligation request) by EEO.

Once ordered, Procurement, DoIT, or Telecom will notify EEO, by email, once the accommodation items are ordered, and will notify EEO of the anticipated delivery date following creation of the purchase order. EEO will, in turn, notify the requesting employee, by email, of the anticipated delivery date. Upon delivery, the equipment will

be bar-coded by Office Services (if it meets the cost threshold as provided in Section 1101 of this Manual).

The cost center and/or employee receiving the accommodation item shall notify EEO that the accommodation item was received. EEO will follow up with an employee who has been provided equipment or a device as a reasonable accommodation to ensure that the accommodation meets that employee's needs. Normally, the follow-up will occur two or more weeks following delivery to allow the employee a reasonable period to adjust to and develop competency in the use of the new aids or devices provided.

Equipment or devices purchased for reasonable accommodation purposes for employees are considered assigned to the requesting employee rather than to the cost center to which the employee is currently assigned. The equipment or devices will follow the employee in the event of the employee's transfer following the procedures set forth in Section 1101 of this Manual. EEO may reclaim the equipment or devices or transfer the equipment or devices to another employee upon request if the initial requester leaves the Department, is on an extended leave of absence, or no longer needs the accommodation. The cost center manager will notify EEO of any event that may result in the transfer or reassignment of the reasonable accommodation item. An OS-5 will need to be prepared by the cost center managers, when equipment is transferred or reassigned. Accommodation equipment cannot be transferred or reassigned to another employee without the express authorization from EEO. Cost center managers must notify EEO immediately if any equipment becomes available.

.305 Use of Space Heaters

Qualified IDES employees with disabilities whose physician recommends the use of a space heater as an accommodation shall request such accommodation by completing form EEO-5, Request for Reasonable Accommodation, and Form EEO-7, Physician's Medical Review for Reasonable Accommodation Request. The forms shall be submitted through proper channels through the EEO Office for decision. Refer to subsection .301 for proper submission of the forms and for procedures for providing reasonable accommodations. Space heater requests must be approved by CMS. The IDES EEO Office will process the request with CMS and inform the requesting employee of the final decision.

Once the EEO Office issues a written decision regarding the space heater accommodation request, CMS will be notified through a Space Heater Request Form. EEO must provide CMS with the employee's EEO-7, or an equivalent doctor's statement, with the form. CMS will then conduct an assessment of the employee's office or work area before approving the use of a space heater there. If CMS approves the use of the space heater in the employee's work area, they will notify the employee and EEO Office. The EEO Office will then issue an amended decision referencing CMS's approval or denial of the use of the space heater. The employee's manager will also be notified of the decision regarding the use of the space heater.

.40 AUXILIARY AIDS AND SERVICES FOR INDIVIDUALS WITH IMPAIRED VISION/HEARING

This subpart explains what auxiliary aids and services are available to IDES employees, job applicants, and clients with impaired vision or hearing, and how to obtain them.

As stated in the notice, [Equal Opportunity is the Law](#), auxiliary aids and services are available upon request to individuals with disabilities. Such auxiliary aids include, but are not limited to, sign language interpreters, readers, taped texts, or other effective methods to

communicate with persons with impaired vision or hearing enabling them to perform the essential functions of their job, participate in the hiring process, or participate in the Department's programs, services, and activities, including the understanding of eligibility and appeal rights.

.401 Text Telephone (TTY)

A TTY is installed in the IDES Central Office to provide statewide service and referral information. TTY's are used by individuals with impaired hearing or speech to communicate by telephone. Persons with impaired hearing who have questions or require information about Department programs should be advised to use the TTY number: 888-340-1007 and /or 866-488-4016.

.402 Illinois Relay Center

The Illinois Relay Service, also known as Illinois Relay 711, is a 24 hour per day, seven days per week service which provides a communications link between persons using a text telephone and persons using a standard voice telephone. Specially trained communications assistants relay conversations over a telephone between a person using a TTY and a person using a voice telephone. This is done by communicating simultaneously with both parties. When the person using the voice telephone speaks, the communications assistant types the information to the TT caller. When the TT caller responds, the communications assistant voices the typed information to the person on the standard voice telephone. The Illinois Relay Service may be used by calling the following numbers: TT users dial 800-526-0844 or 711. Telephone users dial 800-526-0857 or 711. Spanish-to-Spanish users dial 800 501-0864 (TTY) or 711. More detailed instructions and additional telephone numbers are listed in the [Illinois Relay Service website](#).

When the communications assistant answers, the caller provides the telephone number and the type of call the caller wants to make. The communications assistant places the call and, when the person answers, tells the caller to begin the conversation. Inquiries about the Illinois Relay Center should be directed to the EO Officer at 312-793-9290.

.403 Interpreter's Services for the Hearing Impaired

When possible, the services of qualified volunteers should be used. If no volunteers are available, cost centers should consult the [Illinois Deaf and Hard of Hearing Commission](#) website to arrange for a qualified interpreter.

If necessary, other sources for sign language interpreters may be used such as those available through the Anixter Center - Chicago Hearing Society, 773-248-9121, and the Chicago Area Interpreter Referral Service, Voice 312895-4300. If necessary, the EO Officer is available to help in procuring interpreter services.

.404 Interpreter's Fees

The cost center and the interpreter shall mutually agree upon a fee. The local office should attempt to provide the required services at the most economical cost. The level of fees paid to interpreters for the hearing impaired depends upon whether such interpreters are certified by the National Registry of Interpreters for the Deaf and their certificate type.

Cost centers should use petty cash for payment of interpreter's fees if under the petty cash limit as provided in Section 3002 of this Manual. Fees at or over the petty cash limit require the cost center to enter a shopping cart to request services and may notify

the EO Officer by submitting Form EEO-3. (See subsection .401.) The cost center manager is responsible for submitting a monthly report to the EO Officer of all expenditures regarding the provision of auxiliary aids or services for persons with disabilities.

.405 Reporting of Auxiliary Aids or Services Requested and Provided

Whether or not an auxiliary aid or service to an individual with a disability is approved or denied, the cost center may complete Form [EEO-3, Auxiliary Aids Program Accessibility](#) and submit it to the EO Officer.

.50 INDIVIDUALS WITH DISABILITIES THAT POSE A DIRECT THREAT TO HEALTH AND SAFETY

An individual with a disability that poses a direct threat to the health or safety of him or herself or others is not a qualified individual with a disability and, therefore, is not entitled to reasonable accommodation for that disability. The definition of a direct threat is provided in subsection .201. For further information, contact the EO/EEO Officer at 312-793-9290.

.60 COMPLAINTS

IDES employees, IDES clients, and members of the general public may file complaints of discrimination, including discrimination based on disability, that relate to IDES programs, activities, or employment with the IDES Office of Equal Employment Opportunity/Affirmative Action under Section 1201 of this Manual, or with an outside federal or state agency. A list of various outside federal and state agencies and the time frames within which complaints must be filed with them is provided in subsection 1201.40 of this Manual.

Note: It is ***not*** necessary to file a complaint with the IDES Office of Equal Employment Opportunity/Affirmative Action before filing one with an outside agency.

.70 REFERENCES

The Americans with Disabilities Act of 1990 (42 USC 12101)

The Americans with Disabilities Act Amendments Act of 2008

Environmental Barriers Act (410 ILCS 25/1)

Illinois Accessibility Code (71 Ill. Adm. Code 400)

Illinois Information Technology Access Act (P.A. 095-0307)

Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794)

Title VII of the Civil Rights Act of 1964, as amended (42 USC 2000e)

The Illinois Human Rights Act (775 ILCS 5/1-101)

Parts 32, 33, and 38 of the regulations of the U.S. Department of Labor (29 CFR Part 32, 33, and 38)

Section 1.5 of the State Lawsuit Immunity Act (745 ILCS 5/1.5)

Part 2500 of the joint rules of the Department of Human Rights and the Human Rights Commission (56 Ill. Adm. Code 2500)

Section 1101, Property Control Procedures - Cost Center Managers, of the Procedures Manual

Section 1200, Equal Employment Opportunity/Affirmative Action Program: Statement of Policy and Complaint Investigation Procedure, of the Procedures Manual

Section 1201, Complaint Investigation Procedures, of the Procedures Manual

Section 1204, Monitoring Nondiscrimination in Delivery of Employment Service/Unemployment Insurance Functions, of the Procedures Manual

Section 3002, Petty Cash, of the Procedures Manual

Section 3003, Preparation of the NPS Request for the Obligation of Funds, of the Procedures Manual

Section 3010, Procurement of Goods and Services, of the Procedures Manual

Agreement between AFSCME and State of Illinois, Supplemental Agreement

1206 SERVING CLIENTS WITH LIMITED ENGLISH PROFICIENCY (LEP)

.10 BACKGROUND

Clients with limited English proficiency (LEP) must be provided meaningful access to IDES programs and services. An LEP client is a person whose primary language is a language other than English and who requires interpretation and/or translation services to meaningfully and effectively participate in IDES services, benefits, and programs.

Under no circumstances shall services to an LEP client be denied or unnecessarily delayed because of the client's limited English proficiency. Where possible, an LEP client should be served by a language option employee who speaks the client's language. When no on-site interpreter is available, the telephone-accessed language interpreter service vendor under contract with CMS and/or IDES should be used. (See subsection .204 for instructions on how to access and use the interpreter service.) Any refusal of IDES interpreter services by an LEP client should be noted in his or her file and reported, as soon as practicable, to the Equal Employment Officer.

.20 PROCEDURES FOR OBTAINING INTERPRETERS

.201 Posting Notices

Notices in Spanish and, where possible, any other language commonly used by LEP clients of a local office announcing the availability of free interpretation services should be conspicuously posted at the entrance to the local office. A language identification sign instructing an LEP client to point to his or her language should be conspicuously posted in the intake area.

.202 Identifying LEP Clients

Where possible, language option employees (i.e., bilingual employees) should serve as intake staff or as resource persons (See Section 5001 of this Manual). The intake staff person identifies LEP clients and determines the language in which the LEP client needs service. If that language is not readily apparent, it should be determined through use of either the language identification sign or language identification flash cards. If the language cannot be determined through use of the sign or flash cards, it should be determined through use of the language interpreter service.

.203 Selecting an Interpreter Service

IDES is responsible for providing official interpreters as needed by the Department's clients. IDES language option staff or interpreter services must be used as the primary means to interpret for the client. However, an LEP client may provide an interpreter of his or her choosing at his or her expense but only as a supplement and not in lieu of the interpreter services provided by IDES. Interpreter services are always available for use by the local office representative. The local office representative must not rely only on an interpreter provided by the LEP client. IDES reserves the right to require that client-supplied interpreters are certified or are otherwise qualified to provide interpreter services.

A local office may also use certified or otherwise qualified volunteer interpreters as a supplement, and not in lieu of, to the local office interpreter and interpreter services. When possible, volunteer interpreters should be provided with the same interpreter training as language option employees.

.204 Using Telephone-Accessed Interpreter Services
IDES Staff

1. Determines the preferred language.
2. If the client contact is in person, takes the client to a suitable location for a conference call by speaker telephone. If the client contact is by telephone, asks the caller to please stay on the line and places the caller on hold. If three-way calling is available at the staff person's workstation, obtains a second dial tone and adds the non-English speaking person to the line. If not, tells the client that he will be contacted (using the interpreter's conference capability) within the next few minutes.
3. Secures the services of an interpreter by following the instructions on the vendor's [instruction card](#).
4. When the interpreter comes on the line and, in the presence of the client, briefly explains the purpose of the interview.

.205 IBIS Entry

The representative must enter the LEP claimant's preferred language on the Personal Information screen using the LEP dropdown menu. If the preferred language is not in the list, select Other from the dropdown menu and then manually insert the preferred language in the Other field.

.30 DOCUMENT TRANSLATION SERVICES

Documents received in other languages from IDES clients can be translated by State designated vendors. Contact the Equal Employment Office, (312) 793-9290 for assistance and/or Procurement Division, (312) 793-0620, for current vendors. A vendor will be selected who can translate the document.

.40 REFERENCES

Executive Order 13166 dated 8/11/2000

Part 31 of the regulations of the U.S. Department of Labor, (29 CFR Part 31)

Part 38 of the regulations (Civil Rights Act of 1964) of the U.S. Department of Labor (29 CFR Part 38) (42 USC 2000)

Title VI, Prohibition against National Origin Discrimination as it Affects Persons with Limited English Proficiency, Federal Register: January 12, 2004, Volume 69, Number 7, Pages 1763-1768

Section 1113, IDES Telecommunications Equipment/Services, of the Procedures Manual

Section 5001, IBIS Claims Taking Process, of the Procedures Manual

Section 5022, Telephone Adjudication, of the Procedures Manual

1207 REASONABLY ACCOMMODATING RELIGIOUS PRACTICES OF IDES EMPLOYEES AND PROSPECTIVE EMPLOYEES

.10 POLICY STATEMENT

In accordance with Section 1200 of this Manual, it is Department policy to fully comply with all state and federal legal authority pertaining to reasonable accommodation of the religious observations, practices, and beliefs (collectively “religious practices”) of IDES employees and prospective employees in connection with IDES employment. This policy applies to all aspects of IDES employment, including, without limitation, hiring, promotion, and terms and conditions of employment. Refusal of reasonable accommodation under this Section may be a form of unlawful discrimination (see Section 1200 of this Manual).

IDES may deny a religious accommodation under this Section if it would not be reasonable. A religious accommodation would not be reasonable if: (1) the accommodation would impose **undue hardship**; or (2) the practice to be accommodated is **not religious**.

- *Undue Hardship. Significant difficulty, disruption, or expense with respect to IDES or other state of Illinois operations.* The factors IDES will consider when determining undue hardship include, without limitation: (i) whether a deferral of work hours would be inconsistent with the Department’s operational needs (see subsection .30 below); (ii) whether a religious practice would impose significant difficulty, disruption, or expense (see subsection .40 below); and (iii) whether a religious practice would imply the establishment of religion by the state (see subsection .50 below).
- *Non-Religious Practice.* Questions, if any, about whether a practice to be accommodated is religious will be resolved in accordance with pertaining legal authority. (See Section 1200 of the Manual).

.20 BACKGROUND

Under state law, Section 2-101(F) of the Illinois Human Rights Act (IHRA) defines religion with respect to employment as:

“[A]ll aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate an employee’s or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.” (775 ILCS 5/2-101(F))

Section 2-102(E) of the IHRA requires public employers, such as IDES, to allow employees to defer their work hours, when consistent with operational needs, to times outside their regular work schedules to practice their religious beliefs during times within their regular work schedules. (See Section 2005.222 of this Manual.)

Under federal law, Section 701(j) of Title VII of the Civil Rights Act of 1964 (Title VII) provides a definition of religion with respect to employment similar to that of IHRA Section 2-101(F). In addition, the Equal Employment Opportunity Commission (EEOC) issued regulations under Section 701(j) that set accommodation guidelines similar to those of IHRA Section 2-101(F):

“Section 701(j) makes it an unlawful employment practice under [Title VII] for an employer to fail to reasonably accommodate the religious practices of an employee or prospective employee, unless the employer demonstrates that accommodation would result in undue hardship on the conduct of its business.” (29 CFR 1605.2(b)(1))

EEOC guidelines also address the definition of religious practice or belief:

“In most cases whether or not a practice or belief is religious is not at issue. However, in those cases in which the issue does exist, the [EEOC] will define religious practices to include moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.” (29 CFR 1605.1)

.30 DEFERRAL OF WORK HOURS TO PRACTICE RELIGIOUS BELIEFS

The Department addresses the requirement under Section 2-102(E) of the IHRA to defer an employee's work hours, when consistent with operational needs, in order to practice his or her religious beliefs in subsection 2005.222 of this Manual.

.40 RELIGIOUS PRACTICES THAT IMPOSE SIGNIFICANT DIFFICULTY, DISRUPTION, OR EXPENSE

The Department will determine that accommodating a religious practice in connection with IDES employment would be unreasonable if the religious practice would impose significant difficulty, disruption, or expense on IDES or other state of Illinois operations. This may be shown by factors including, without limitation:

- The nature of an accommodation considering the programs, services, and activities it would affect and the need to provide them effectively, efficiently, and without disruption, including whether it would cause health, safety, or security hazards or concerns;
- Disrupting the ability of other employees to perform their job duties, including employee productivity and morale; and,
- The cost of an accommodation considering funding available in connection with the accommodation.

Complaints about a particular religious practice are not required, but may be considered, when determining the reasonableness of an accommodation under this Section. Any questions about whether a particular religious practice would conform with this subsection should be directed to the IDES EEO Officer.

.401 Religious Dress and Grooming

The Department will accommodate employees' religious dress and grooming practices unless accommodation would disrupt IDES operations. For purposes of this subsection, disruption of IDES operations does not simply mean employee disgruntlement. There must be operational factors such as a disruption of employee productivity or an implied establishment of religion. (See subsection .50.)

Examples of religious dress and grooming practices that the Department may accommodate include, but are not limited to: (i) wearing religious clothing or articles (e.g., a Christian cross, a Muslim hijab (headscarf), a Sikh turban, a Sikh kirpan (symbolic miniature sword)); (ii) observing a religious prohibition against wearing certain garments (e.g., a Muslim, Pentecostal Christian, or Orthodox Jewish woman's practice of wearing modest clothing, and of not wearing pants or short skirts); and (iii) adhering to shaving or hair length observances (e.g., Sikh uncut hair and beard, Rastafarian dreadlocks, or Jewish peyes (sidelocks)). Accommodation of religious dress and grooming practices does not give employees a right to accommodation of secular dress and grooming practices.

.50 RELIGIOUS PRACTICES THAT IMPLY THE ESTABLISHMENT OF RELIGION

The First Amendment of the U.S. Constitution prohibits a state agency from allowing employees to engage in religious practices that could imply the establishment of religion by the state to agency customers or the general public. These restricted practices may involve the personal display of religious symbols or other forms of personal religious expression.

Complaints about a particular religious practice from IDES customers or the general public will be given serious consideration. Any questions about whether a particular religious practice would conform with this subsection .50 should be directed to the IDES EEO Officer.

.501 Christmas Displays

The Department may accommodate an employee's display in their personal work area of secular Christmas symbols (e.g., a Christmas tree, or images or figures of Santa Claus, a Santa Claus house, reindeer pulling Santa's sleigh, Christmas carolers, etc.) when reasonable under subsection .40, even if the display is visible to IDES customers or the general public. Any questions about a particular Christmas display should be directed to the IDES EO Officer.

.60 COMPLAINTS

IDES employees and prospective employees may file complaints of discrimination, including discrimination based on the failure to reasonably accommodate a religious practice, with the IDES EEO/AA Office under Section 1201 of this Manual, or with an outside federal or state agency. A list of various outside federal and state agencies and the time frames within which complaints must be filed with them is provided in subsection 1201.40 of this Manual.

It is not necessary to file a complaint with the IDES EEO/AA before filing one with an outside agency. Please see Subsection 1201 of this Manual for further guidance on how and where to file a complaint of discrimination, including, but not limited to, a complaint based on discrimination for failure to reasonably accommodate a religious practice.

.70 REFERENCES

Title VII of the Civil Rights Act of 1964 (42 USC 2000e)

Section 188 of the Workforce Innovation and Opportunity Act of 2014 (29 USC 2938)

The Illinois Human Rights Act (775 ILCS 5/1-101)

Part 1605 of the regulations of the U.S. Equal Opportunity Commission (29 CFR Part 1605)

Religious Garb and Grooming in the Workplace: Rights and Responsibilities, *U.S. Equal Opportunity Commission* (03/06/2014)

Section 1200, Unlawful Discrimination; Reasonable Accommodation; Equal Employment Opportunity/Affirmative Action: Statement of Policy, of the Procedures Manual

Section 1201, EEO/EO Complaint Procedures, of the Procedures Manual

Section 2005, Time and Leave, of the Procedures Manual