



OFFICIAL ORDER

MICHIGAN STATE POLICE

SUBJECT: Recognizing and Reporting Discriminatory Harassment and Civil Rights Violations Involving Department Members

TO: Members of the Department

This Order provides resources for counseling and methods for filing complaints with the department for members who believe they may be victims of harassment or discrimination by other members. It also establishes procedures for processing civil rights complaints directed against members or citizens. It is written to protect members from harassment and undocumented allegations. It also provides the capability to adequately investigate allegations against members who are accused of improper conduct.

1. GENERAL

- A. The Department of State Police has a tradition of high standards sustained by the individual integrity of its members. The ability of the department to ensure that members conduct themselves in a manner consistent with these standards is essential to the preservation of the integrity of the department.
- B. To encourage the greatest public cooperation and support, the department shall properly investigate and adjudicate reported violations of civil rights.
- C. Members of the department have the legal right to work in an environment free from all forms of harassment. The department will not tolerate, condone, or allow harassment by employees, whether sworn or civilian, permanent or contractual, or from non-employees who conduct business with this agency or the State. Sustained complaints shall result in corrective disciplinary action, up to and including termination of employment.
- D. Harassment of, or discrimination against, department members based on race, color, national origin, sex, religion, age, disability, height, weight, marital status, genetic information, partisan considerations, or other areas protected by law is prohibited. These rights are guaranteed by [Title VII of the Civil Rights Act of 1964](#), as amended; [the Michigan Elliott-Larsen Civil Rights Act of 1976](#), as amended; the [Michigan Persons With Disabilities Civil Rights Act, 1976 PA 220](#), as amended; the [Americans with Disabilities Act of 1990](#); [Section 504 of the Rehabilitation Act of 1973](#); [Civil Service Reg. 1.03](#); and applicable collective bargaining and labor agreements.

2. DISCRIMINATORY HARASSMENT

- A. For purposes of this Order, the term “discriminatory harassment” means targeting another person or persons with unwelcome advances, requests for favors, and other verbal or physical conduct or communication based on religion, race, color, national origin, age, sex, height, weight, marital status, partisan consideration, genetic information, or disability under any of the following conditions:
 - (1) Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of employment.

- (2) Submission to, or rejection of, the conduct or communication is used as a factor in decisions affecting the person's employment.
 - (3) The conduct or communication has the purpose or effect of substantially interfering with a person's employment or creating an intimidating, hostile, or offensive employment environment.
- B. This definition augments the scope of "discriminatory harassment" to include all forms of harassment in any of the protected classes. It is not limited to "sexual harassment." This policy does not alter or diminish the prohibition against "sexual harassment," but expands the same prohibition and standards to instances of "religious harassment," "disability harassment," "racial harassment," and other harassment based on protected class status.
- C. Prohibited Conduct
- (1) No employee shall either explicitly or implicitly, ridicule, mock, deride or belittle, intimidate, threaten verbally or physically, or bully any person.
 - (2) Employees shall not make offensive or derogatory comments to any person, either directly or indirectly, based on religion, race, color, national origin, age, sex, height, weight, marital status, partisan consideration, disability, genetic information, or other characteristic. Such harassment may be a prohibited form of discrimination under state and federal law, and is considered misconduct subject to disciplinary action by this agency.
- D. Reporting a Complaint
- (1) All complaints alleging harassment or discrimination, or information indicating the same, shall be properly documented, investigated, and resolved.
 - (2) All members, including the parties directly involved, witnesses, and investigators, shall act with discretion and maintain strict confidentiality, to the extent possible, in all matters addressed herein.
 - (3) Members who believe that harassment or discrimination has occurred or is occurring shall report it in writing through their normal chain of command as soon as possible.
 - i. Members shall be informed that supervisors are required to ensure an investigation is conducted on all alleged violations of law or department policy.
 - ii. This policy is not designed to hinder members from coming forward with violations, but to aggressively confront and eliminate harassing and discriminatory behavior.
 - (4) Supervisors shall assist members in assessing the situation, providing information, suggesting other resources, exploring possible strategies available for problem resolution when appropriate, and/or starting the formal complaint process.

Due to the sensitive nature of many harassment and discrimination complaints, the department's Equal Employment Opportunity Officer shall be informed of the complaint by the supervisor and included in the process for all complaints covered by Section 4E of this order.
 - (5) If a supervisor in the member's chain of command is involved, members may choose to contact the Equal Employment Opportunity Officer directly.

- a. Any member may contact the Equal Employment Opportunity Officer directly by telephone, in writing, or in person at any time. The Equal Employment Opportunity Officer will assist members in determining whether the reported behavior constitutes harassment or discrimination and are a violation of law or department policy. Members may also consult with any of the following alternative resources:
 - i. The Office of Behavioral Science.
 - ii. The Human Resources Division Commander.
 - iii. The Employee Services Program.
 - iv. The Civil Service Commission, Equal Employment Opportunity Officer.
 - b. The Equal Employment Opportunity Officer shall act with discretion and confidentiality and shall protect the privacy of each member to the extent provided by law. Persons from whom information is obtained shall be informed that the complainant and alleged harasser may have access to information contained in the investigation through avenues provided under the Freedom of Information Act or by collective bargaining agreement.
- (6) If a victim prefers that the problem be addressed at the local level, when appropriate, their wishes shall be honored. This option is available in limited circumstances and shall only be reserved for those cases that do not fall under Section 2D(8) of this order.
- (7) When a complaint alleging a violation of this order is initiated, the investigative findings, and actions taken shall be documented in writing and maintained in an electronic record management system.
- a. Investigations at work sites that do not have access to an electronic management system shall be supervised by the Internal Affairs Unit.
 - b. The Equal Employment Opportunity Officer may be contacted for assistance and guidance, and shall be provided a copy of all relevant documentation, if requested.
- (8) Because of the serious nature and impact of harassing and discriminatory behavior, there are certain allegations and situations which shall be formally investigated. These include, but are not limited to:
- a. Touching of a sexual nature.
 - b. Allegations between supervisors and subordinates.
 - c. Quid pro quo harassment as referred to in the Harassment Policy included in Official Order No.1 is defined as, "...a form of sexual harassment in which submission to, or rejection of, sexually harassing conduct is used as the basis for employment decisions affecting the victim."
 - d. Conduct which is so pervasive, frequent, or egregious that a hostile work environment exists, which is defined in the Harassment Policy included in Official Order No. 1 as, "...a form of sexual harassment in which the sexually harassing conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment, and causes undue stress or fear for the employee."

- e Allegations of discriminatory harassment based on any protected class status (i.e., race, color, sex, religion, national origin, height, weight, marital status, genetic information, partisan considerations), as described by state and federal law, that result in an adverse employment action with regard to a term, condition, or privilege of employment.

(9) Complaint Procedures

- a. To initiate a formal investigation, the complaining member or the supervisor receiving the information shall ensure that a Complaint Against Member form, UD-93 is completed.
 - i. A brief description of the events leading to the complaint shall be included on the form.
 - ii. The Complaint Against Member form, UD-93 shall be distributed according to distribution instructions on the form. Internal Affairs shall provide a copy to the Equal Employment Opportunity Officer.
- b. Assignment of Investigator
 - i. The Director or his or her designee may assign the complaint investigation to any of the following:
 - 1) The Internal Affairs Unit,
 - 2) The Equal Employment Opportunity Officer, or
 - 3) An impartial investigator.
 - ii. The investigator shall be selected based on the following information:
 - 1) The nature of the incident,
 - 2) His or her sensitivity to the nature of the incident to be investigated, including the need for strict confidentiality,
 - 3) His or her investigative skills, and
 - 4) Objectivity with regard to the principals.
- c. All discrimination or harassment investigations shall be conducted according to the Department of Civil Service Guidelines and the department's Internal Affairs process.
 - i. The courts have determined that the same standards of proof used in sexual harassment cases apply to other forms of discrimination. Therefore, the same guidelines shall be used in the investigation.
 - ii. The Equal Employment Opportunity Officer shall be contacted before commencement of the investigation.
- d. Once the allegation is completely investigated, the Internal Affairs Unit shall render a closing determination, taking into consideration input from the bureau and district or division commander.

- i. If the complaint is sustained, the department's labor relations specialists will determine the appropriate discipline.
- ii. The division or district commander shall be immediately informed as to whether the allegation is sustained and the proposed discipline.
- e. Discipline or other forms of corrective action shall be carried out in compliance with applicable rules, regulations, and collective bargaining agreements.
- f. Filing a complaint with the department using the process detailed in Official Order No. 1, Article 5, Enclosure (1), does not prevent a member from seeking remedy through other appropriate avenues. In most cases, however, resolution within the department is preferred. Other possible methods include:
 - i. Filing a complaint with the Michigan Department of Civil Rights within 180 days of the alleged event.
 - ii. Filing a complaint with the federal Equal Employment Opportunity Commission within 300 days of the alleged event.
 - iii. Initiating action through the Civil Service or union grievance procedure.

3. CIVIL RIGHTS VIOLATIONS

A. Complaints Alleging That a Citizen Unlawfully Violated the Civil Rights of Another Citizen

- (1) Complaints alleging violation of a citizen's rights because of religion, race, color, national origin, height, weight, marital status, and (in the case of employment) disability, age or sex, shall be accepted at any level where reported. The complaints, which shall bear a 56000 file class, shall be investigated. Disposition of reports shall be in the usual manner.
 - a. When a preliminary investigation reveals that the alleged discrimination is a violation for which criminal penalties are provided, the incident shall be investigated and reported in the same manner as other incidents. Civil rights violations for which criminal penalties are provided include:
 - i. Equal public accommodations ([MCL 750.146](#))
 - ii. Race or color not to disqualify for jury service ([MCL 750.148](#))
 - iii. Failure to uphold or enforce law ([MCL 752.11](#))
 - iv. Insurance, race discrimination in doing business ([MCL 500.2082](#))
 - v. Discrimination between sexes in payment of wages ([MCL 750.556](#))
 - vi. Credit or Loan Discrimination ([MCL 750.147a](#))
 - vii. Ethnic Intimidation ([MCL 750.147b](#))
 - b. If the preliminary investigation reveals that the alleged violation is not a criminal violation, a summary of the complaint and investigation shall be forwarded through channels to the department's Equal Employment Opportunity Officer for transmittal to the Civil Rights Commission for further investigation and action.

- i. A copy of the complaint shall not be given to the Civil Rights Commission.
 - ii. When requested, the Civil Rights Commission will provide the department with a certified copy of their findings.
 - (2) The civil rights within the jurisdiction of the Civil Rights Commission are those guaranteed by law and the constitution including, but not limited to, the areas of equal protection of the laws, employment, education, housing, transportation, and public accommodations.
- B. Citizen Complaints Alleging That a Member Violated the Civil Rights of a Citizen
 - (1) Complaints against members shall be accepted at any level where reported.
 - a. A Complaint Against Member form, UD-93, shall be completed and submitted for each complaint according to Official Order No. 1, Article 5.
 - b. Alleged civil rights violations involving department members shall be promptly and thoroughly investigated.
 - (2) The member shall be notified of the complaint unless it would hinder the investigation. The commander at the level having jurisdiction over the offense shall make this decision.
 - (3) The member shall be notified in writing of the final judgment made in each case. The Complaint Against Member shall be closed as "sustained", "not sustained", "exonerated", or "unfounded", as defined in Official Order No. 1, Article 5, Enclosure (1).
 - (4) If the investigation discloses that the complaint warrants disciplinary action, it shall be handled according to Official Order No. 1, Article 6.
 - (5) Distribution and disposition of the Complaint Against Member form and investigative reports shall be according Official Order No. 1, Article 5, Enclosure (1).
 - (6) Complaints about department procedure or policy shall be reported on interoffice correspondence stationery, through channels, to the appropriate bureau/office commander, according to Official Order No. 1, Article 5.
 - (7) In all cases, the complainant shall be notified of receipt of the complaint and the disposition according to Official Order No. 1, Article 5.
- C. Complaints Initiated By the Civil Rights Commission
 - (1) When a formal complaint is submitted to the Director by the Civil Rights Commission, a written report of the complaint shall be submitted on the Complaint Against Member form, UD-93.
 - (2) The Complaint Against Member form, UD-93, shall be completed by the assigned investigator as an initial report. The Director shall order an investigation according to the needs of each particular case.

Such an investigation shall not interfere with the Civil Rights Commission and shall be for the purpose of determining all facts pertaining to the allegation.
 - (3) When investigating a complaint against a member, a Civil Rights Commission member may, after obtaining clearance from the Director through the appropriate Deputy Director, interview a department member during his or her on-duty time and at the convenience of the post work schedule.

- a. The interview shall be conducted in the presence of the Equal Employment Opportunity Officer, and a record shall be made of the meeting and shall be placed in an incident file maintained by the Equal Employment Opportunity Officer.
 - b. At the discretion of the Human Resources Division Commander and in compliance with the appropriate collective bargaining agreement, the member's representative may attend the interview.
- (4) Members of the Civil Rights Commission requesting department records or copies of records are required to submit their requests in writing to the Director.

Department records or copies of records shall not be released to any agency without the consent of the Director.

- (5) Since there are time limits imposed on the Director in answering formal complaints to the Civil Rights Commission, all reports shall be forwarded to the Director through channels without delay.
- (6) Civil Rights Commission conciliation hearings shall be attended by the Equal Employment Opportunity Officer. The accused member may be required to attend this conciliation hearing.

4. REVISION RESPONSIBILITY

Responsibility for continuous review and revision of this Order lies with the Equal Employment Opportunity Officer, in cooperation with the Executive Division.

DIRECTOR

