STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CA1693
	)	EEOC NO.: 21BA80707
VIDA CROSS,	)	HUD NO.: N/A
	)	ALS NO.: 09-0002
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman, and Yonnie Stroger presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2008CA1693, Vida Cross, Complainant, and City Colleges of Chicago – Malcolm X, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request and supporting materials, and the Department's response to the Complainant's Request; and the Commission being fully advised of the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of Counts A and B of the Complainant's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On January 7, 2008, the Complainant filed a six-count charge of discrimination with the Department, alleging that the Respondent excluded her from a staff meeting because of her age (41) and in retaliation for filing charges with the United States Equal Employment Opportunity Commission ("EEOC") and that the Respondent failed to promote her because of her age and in retaliation for filing charges with the EEOC, in violation of § 2-102(A) and § 6-101(A) of the Illinois Human Rights Act ("Act"). On October 24, 2008, the Department dismissed the Complainant's charge for lack of substantial evidence of discrimination. On December 1, 2008, the Complainant filed a timely request for review.

2. The undisputed evidence in the investigation file shows that the Respondent is a community college system for the City of Chicago educators, children, and adult learning. The Complainant's job title at the Respondent is Adjunct Professor in the Communications Fine Arts Department.

3. In the Complainant's Request, she alleges that the Respondent treated her differently than the Respondent treated younger employees. Further, the Complainant contends that she did not receive the same notice of a staff meeting as other employees received. Also, the Complainant argues that the Respondent failed to promote her because of her age and in retaliation for filing charges with the EEOC.

4. After an investigation, the Department dismissed all six counts (Counts A-F) of the Complainant's charge for lack of substantial evidence. In its response to the Complainant's Request, the Department asked the Commission to vacate its dismissal of all but two counts of the charge[1]: (a) Count A, which alleged that the Respondent excluded the Complainant from a staff meeting because of her age and (b) Count B, which alleged that the Respondent excluded her from a staff meeting in retaliation for filing charges with the EEOC.

5. Therefore, the only matter before the Commission is the review of the Department's dismissal of Counts A and B of the Complainant's charge.

6. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed Counts A and B of the Complainant's charge for lack of substantial evidence.

7. The Commission finds that the Department properly dismissed Count A because there is no evidence that the Respondent excluded the Complainant from a staff meeting because of her age. While the Complainant contends that she did not receive e-mails that other employees received indicating the time and location of the meeting, there is no evidence that the Complainant was excluded from the meeting because of her age. The Investigation Report shows that the Complainant received an e-mail on August 28, 2007 notifying her of a staff meeting on September 10, 2007, but not indicating the location or time of the meeting. The Department's investigation also revealed that the Respondent placed a memo in all staff mailboxes on September 10, 2007, which notified staff of the location and time of the meeting to occur that same day. Further, a co-worker of the Complainant, who was also a member of the Complainant's protected class (age 62), attended the meeting.

8. As to Count B of the Complainant's charge, the Commission finds that the Department properly determined that the Complainant could not establish a *prima facie* case of retaliation pursuant to the Act. Even if the Respondent failed to provide the Complainant with the time and location of the staff meeting, this inaction does not rise to the level of a "material adverse act" required to prove retaliation. *See* Hoffelt v. Illinois Department of Human Rights, 367 Ill. App. 3d 628, 633 (1st Dist. 2006). Further, there is no evidence of a causal nexus between the Complainant's protected activity of filing a charge with the EEOC and the Respondent's alleged failure to provide the Complainant with the time and location of the staff meeting.

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[1] Pursuant to 56 Ill. Adm. Code sec. 5300.460, because the Department did not oppose the Complainant's Request for Review as to Counts C, D, E, and F of the charge, the Commission entered a separate order vacating the dismissal of Counts C, D, E, and F of the charge and remanded those counts to the Department for further investigation.

9. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of Counts A and B of her charge was not in accordance with the Act. The Complainant's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Complainant's charge is hereby **SUSTAINED.**

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Respondent City Colleges of Chicago – Malcolm X as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS	**)**	
	)	**Entered this 4th day of March 2009.**
HUMAN RIGHTS COMMISSION	**)**	

Commissioner David Chang

Commissioner Marylee V. Freeman

Commissioner Yonnie Stroger