



Regulation of the Executive Director

Category: **EMPLOYEES**

Number: **A-1**

Subject: ANTI-DISCRIMINATION POLICY AND PROCEDURES FOR FILING
INTERNAL COMPLAINTS OF DISCRIMINATION

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ABSTRACT

This Regulation sets forth the Board of Education Retirement System's (BERS) Anti-Discrimination Policy and establishes an internal review process for employees, applicants for employment, and others who do business with BERS, or otherwise interact with BERS who wish to file complaints of unlawful discrimination or harassment, or retaliation based on such complaints. Any such complaints may be filed in accordance with the Executive Director's Regulation A-1.

I. POLICY

- A. It is the policy of the Board of Education Retirement System (BERS) to provide equal employment opportunities without regard to actual or perceived race, color, creed, age, national origin, alienage or citizenship status, gender (including gender identity and sexual harassment), sexual orientation, disability (including pregnancy), predisposing genetic characteristics, marital status, and partnership status, military status, unemployment status, arrest or conviction record, status as a victim of domestic violence, stalking, and sex offenses, retaliation, bias-related harassment, and discrimination against interns, paid or unpaid. It is also the policy of BERS to maintain an environment free of harassment on any of the above-noted grounds, including sexual harassment, and to comply with all laws, Federal, State and Local, which may apply.

Accordingly, it is a violation of this policy for BERS employees to engage in behavior that subjects any employee or applicant for employment to discrimination and/or harassment at a worksite location or during a work-related function on the basis of any of the above-noted grounds where such conduct: (1) adversely affects any aspect of an employee's/applicant's employment or the compensation, terms, conditions or privileges of employment; or (2) creates a hostile, offensive, or intimidating work environment which relates or refers to conduct that is so severe or pervasive as to alter the conditions of employment.

It is also a violation of this policy for BERS employees to engage in discriminatory behavior and/or harassment with respect to applicants for employment and other individuals who do business with BERS, or otherwise interact with BERS.

- B. It is the policy of BERS to prohibit retaliation against any individual who objects to discriminatory practices in the workplace, who complains of discrimination or harassment as described in Section I (A) or who files or participates in the investigation of an internal or external complaint of discrimination. Any adverse act against individuals due to their participation in a protected activity is considered retaliatory.

- C. In order to develop and maintain a positive and supportive working environment that is free of discrimination, harassment, retaliation and intimidation, the full cooperation of every staff member is necessary. Employees are expected to be exemplary role models in the departments and offices in which they serve.
- D. Supervisors are required to maintain an environment free of unlawful discrimination or discriminatory harassment.
- E. Behavior which violates this policy may serve as a basis for discipline, even if it does not rise to the level of a violation of federal, state or local discrimination laws.
- F. This policy applies to conduct and comments, whether or not intentionally offensive or directed at a particular person or group, which constitute a violation of this policy.
- G. Any employee found to be in violation of this policy may be subject to legal sanctions and appropriate disciplinary action.
- H. All BERS employees are expected to cooperate with the Office of Equal Opportunity ("OEO") investigations and are required to report if summoned to appear by OEO. Tampering with or impeding an OEO investigation constitutes a violation.

II. REPORTING

- A. Any staff member who witnesses an employee discriminate or harass another employee on the basis of the employee's actual or perceived race, color, creed, ethnicity, national origin, citizenship/immigration status, religion, gender, gender identity, gender expression, sexual orientation, disability, or weight or who have knowledge or information or receive notice that an employee may have been the victim of such behavior by a staff member are required to orally report the alleged incident to the Office of Equal Opportunity (OEO) within one business day and complete and file a written A-1 complaint report with the OEO officer/designee no later than two days after making the oral report.
- B. Supervisors are required to immediately report instances of any oral or written complaints of discrimination or discriminatory harassment committed by employees to OEO. Supervisors can make the report by calling OEO, e-mailing OEO or filing a copy of the A-1 complaint form. Advice and assistance on how to proceed will be provided as needed. A supervisor's failure to report complaints or instances of discrimination to OEO may constitute a violation of this policy.

III. COMPLAINT PROCEDURES

Employees, applicants for employment and others who do business with BERS, or otherwise interacts with BERS may file complaints of discrimination, harassment, or retaliation as set forth below. Such complaints may be filed in writing or orally by contacting OEO at the phone number/address found at the end of this Regulation.

A. Deadline for Filing a Complaint

In order to facilitate the prompt, thorough and fair resolution of complaints of unlawful discrimination, all complaints must be filed with OEO as soon as possible. **OEO will not accept complaints by employees, applicants for employment, and persons who do business with BERS, or otherwise interacts with BERS filed more than one year after the event that is the subject of the complaint.**



B. Procedure for Filing Complaints

1. Complainants should use the complaint form attached to the regulation to file a complaint (see Attachment No. 1). Complaint forms can be obtained directly from the OEO office upon request. Upon receipt of a complaint, OEO will determine whether the complaint alleges a violation of this regulation and, if so, will assign the complaint to an OEO investigator. If OEO believes that irreparable harm will occur before the complaint can be fully investigated and resolved, OEO may recommend interim relief pending completion of the investigation of the complaint.
2. Following the investigation, OEO will submit written recommended findings as to whether there has been a violation of this Regulation of the Executive Director/designee. The Executive Director/designee will issue a written determination within 90 working days of receipt of the complaint, unless circumstances warrant extension of the time period. Complainant(s) and Respondent(s) will be informed in writing of the determination.
3. If a violation of this regulation is substantiated, the respondent's supervisor will confer with OEO to determine if any disciplinary or corrective action is required.
4. OEO will ensure that any corrective action required by the decision is implemented.

C. Anonymous Complaints

A complainant may file an anonymous complaint with OEO alleging that a particular practice or policy is discriminatory. OEO will review such complaints in order to determine how they should be processed in light of the information provided by the anonymous complainant.

D. Confidentiality

It is the Board of Education Retirement System's policy to respect the privacy of all parties and witnesses regarding complaints brought under this regulation. However, the need for confidentiality must be balanced against the obligation to cooperate with lawful investigations, to provide due process to the accused, and/or to take necessary action to conciliate, investigate, or resolve the complaint. Therefore, information regarding the complaint may need to be disclosed in certain appropriate circumstances.

E. False Accusations of Discrimination

A complainant or witness, who knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, may be subject to discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

IV. DISSEMINATION OF THESE PROCEDURES

Notice of the Board of Education Retirement System's Anti-Discrimination Policy and internal complaint procedures must be given to employees annually. In addition, each department must prominently post the Organization's Anti-Discrimination Policy (which provides contact information for OEO, and indicates where a copy of this regulation may be obtained).



V. ALTERNATIVE COMPLAINT PROCEDURES

These internal procedures do not deny the right of any individual to pursue other avenues of recourse that may include filing charges with any of the external agencies noted below. However, where a complaint is filed with an external agency, OEO will not conduct an internal investigation, and will transfer the matter to the General Counsel of BERS.

- New York City Commission on Human Rights
- U.S. Department of Education, Office for Civil Rights
- U.S. Equal Employment Opportunity Commission
- New York State Division of Human Rights
- The time frames for filing with these agencies may vary

VI. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone:
718-935-4529

Office of Equal Opportunity
N.Y.C. Board of Education Retirement System
65 Court Street - Room 1602E
Brooklyn, NY 11201

Fax:
718-935-2789

Website address: www.nycbers.org

