

PROCEDURE No. HR-13: EQUAL EMPLOYMENT OPPORTUNITY

REVISED 05/03

SCA EEO POLICIES

ANTI-DISCRIMINATION POLICY

The School Construction Authority (SCA) is an equal opportunity employer committed to compliance with federal, state, and local laws prohibiting employment discrimination.

Employment decisions at the SCA will be made on the basis of merit, fitness and equality of opportunity and without unlawful discrimination on the basis of:

- | | |
|-------------|---------------------------------------|
| -Age | -Marital Status |
| -Alienage | -National Origin |
| -Color | -Prior Record of Arrest or Conviction |
| -Creed | -Race |
| -Disability | -Religion |
| -Gender | -Sexual Orientation |

There are federal, state, and local laws which protect persons who are discriminated against because they are perceived to be in a protected class. For example, a person who is denied a job because s/he is perceived to have a disability may file a complaint of disability discrimination even though that person actually has no disability. The same is true of persons who may be perceived to be in any of the categories listed above including race, religion, etc.

Harassment based on a person's actual or perceived protected status is also prohibited. Thus, if a person is harassed because of skin color, for example, s/he is protected by this Policy, as well as by federal, state and local anti-discrimination laws.

Consistent with the law, the SCA will make reasonable accommodation for persons with disabilities and for religious observance.

Anti-discrimination protection applies to all terms and conditions of employment, including, but not limited to:

- | | |
|--------------------------|-------------------------|
| -Recruitment | -Promotions |
| -Testing | -Training Opportunities |
| -Hiring | -Transfers |
| -Work Assignments | -Discipline |
| -Salary and Benefits | -Discharge |
| -Performance Evaluations | -Working Conditions |

The SCA is committed to preventing discrimination by ensuring that all employees are aware of their rights and obligations under this Policy and by fostering work environments that tolerate and value differences among persons. The SCA will promote these objectives through regular anti-discrimination and bias reduction training.

When discrimination is suspected, employees are encouraged to follow the SCA's discrimination complaint and investigation procedures. Any person found to have engaged in discriminatory conduct or practices will be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, and any other measures reasonably calculated to eliminate unlawful and/or inappropriate behavior.

In addition to implementing appropriate disciplinary action, the SCA will take reasonable steps to address the impact that any unlawful discrimination has had on the complainant.

Any employee or applicant who believes that s/he has been subjected to unlawful employment discrimination, irrespective of whom the offender may be, should contact the SCA's Equal Employment Opportunities (EEO) Officer or one of the SCA's EEO Counselors for consultation and/or to file a complaint. All complaints will be handled confidentially.

SEXUAL HARASSMENT POLICY

Sexual harassment is a form of employment discrimination based on gender which is prohibited by law. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- (a) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (b) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- (c) such conduct has the purpose or effect of unreasonably interfering with an individual's work

performance or creating an intimidating, hostile, or offensive work environment.

A broad range of behavior, in certain circumstances, can be considered sexual harassment, including sexually suggestive remarks, pictures, e-mail, gesturing, verbal abuse of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching. Sexual harassment can also include harassment between individuals of the same sex.

Any manager or supervisor who knows of a sexually intimidating or hostile work environment or who becomes aware that the terms and conditions of a person's employment are based upon submission to sexual conduct must consult with the EEO Officer or an EEO Counselor immediately, without exception. Any employee who believes that s/he is being harassed is urged to contact the EEO Officer or an EEO Counselor as soon as possible.

DISABILITIES POLICY

Discrimination against a person based upon that person's actual or perceived disability, record of disability, or that person's relationship with a person with a disability is prohibited by federal, state, and local laws and will not be tolerated by the SCA. Disabilities are physical, mental, or psychological impairments of a body system which may limit one or more life activities of a person. A record of such an impairment includes, for example, a history of cancer which is currently in remission. A relationship with a person having a disability includes having a family member with a disability or having a cooperative or supportive relationship at work (such as assisting a colleague with a disability).

In addition to taking aggressive action against discrimination towards persons with disabilities, the SCA will take appropriate steps to encourage employment of and promotional opportunities for qualified applicants and employees with disabilities.

Anyone believing s/he has been discriminated against on the basis of disability should consult with the EEO Officer or an EEO Counselor. The EEO Officer will be responsible for ensuring compliance with all federal, state, and local laws, as well as with the SCA's policy pertaining to persons with disabilities.

The EEO Officer is responsible for arranging for sign language interpreters, alternative formats for persons with visual impairments, and other effective means of communication with persons with disabilities, as required by law.

The SCA will make reasonable accommodations to qualified employees and applicants with disabilities, unless providing such accommodations would create undue hardship. Whether an accommodation is reasonable generally depends upon the circumstances of each situation. Some examples of accommodations which have been found reasonable for certain employers, under particular circumstances, include: making facilities physically accessible to and usable by persons with disabilities; modifying work schedules; providing or modifying equipment or devices; and providing auxiliary aides and services.

Employees with disabilities requesting reasonable accommodations to perform essential job functions should follow the relevant procedure outlined in Section B of the Procedures below.

All documentation and information obtained in each stage of the reasonable accommodation procedure regarding the employee's medical history must be collected by the Human Resources Director and maintained on separate forms and in separate medical files held by the EEO Officer. Such documentation must be kept separate and apart from other personnel data and treated as confidential medical records, except that affected managers and supervisors shall be informed of any necessary restrictions on work assignments and/or specific accommodations that may be required. Furthermore, first-aid and safety personnel shall be informed if a disability requires emergency treatment. Government officials investigating legislative and/or regulatory compliance shall be provided with material and relevant information upon request.

ANTI-RETALIATION POLICY

It is unlawful to retaliate against or harass any person for filing an EEO complaint, seeking a reasonable accommodation for a disability or a religious observance, or cooperating with an investigation of an EEO complaint. The SCA will not tolerate any such retaliation.

Any person who believes that s/he is being retaliated against for having made a complaint, or cooperating in an investigation, is urged to file a complaint of retaliation with the EEO Officer or an EEO Counselor. Any employee who engages in such retaliation or harassment shall be subject to discipline, which may include reprimand, suspension, probation, demotion, transfer or termination.

EEO COMPLAINT AND INVESTIGATION PROCEDURES

PURPOSE

These procedures establish a process by which an applicant for employment or a current SCA employee who believes s/he has been the victim of a discriminatory act or practice in violation of federal, state, or local law or the equal employment opportunity policy of the SCA may seek appropriate recourse. In an effort to facilitate the prompt, thorough, and fair resolution of complaints of discrimination, these procedures are offered as a supplement to existing procedures provided by federal, state, and/or city laws.

The SCA is committed to providing equal employment opportunities in accordance with Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Fair Labor Standards Amendments of 1974, Age Discrimination in Employment Act of 1967 (as amended), Rehabilitation Act of 1973, Americans With Disabilities Act, and New York State and New York City Human Rights Law.

These laws also prohibit retaliation against any individual who exercises his or her right to be free of illegal discrimination and permit the retaliation itself to serve as the basis for a complaint or lawsuit.

RESPONSIBILITY

To maintain an environment free of discrimination, sexual harassment, and intimidation, the full cooperation of every employee is expected.

The President/CEO of the SCA has ultimate responsibility for ensuring that EEO laws are observed and that appropriate EEO policies are developed and enforced.

The President shall appoint an EEO Officer.

The President shall develop EEO policies and plans to ameliorate unfair barriers in the SCA's recruitment, selection, compensation, training and/or promotion procedures. Corrective strategies shall be developed to eliminate any such barriers.

The President/CEO shall review all EEO complaint investigation findings and recommendations and authorize action as appropriate.

Vice Presidents shall be accountable to the President/CEO for ensuring that professionals, managers, and supervisors participate in training in EEO laws, the SCA's Equal Employment Opportunity policies, and their managerial and supervisory responsibilities under these policies and procedures.

Managers and supervisors shall be accountable to Departmental Vice Presidents and shall cooperate with the EEO Officer in the discharge of his/her duties which include training, investigation and resolution of complaints, and appropriate modification of relevant procedures to ensure equal employment opportunity for applicants and employees.

Managers and supervisors shall strive to create a work environment of equality of job opportunity. Managers and supervisors shall participate in training concerning the content and mandates of EEO laws, implementing the SCA's EEO policies, and carrying out managerial and supervisory responsibilities related to equal employment opportunity and respect for the diversity of all employees.

If an EEO related complaint is reported to a manager or supervisor, he/she is obligated to report it to the EEO Officer and assist the EEO Officer or EEO Counselors in the investigation and resolution of the matter.

The EEO Officer shall have primary responsibility for assisting the President/CEO, and/or his/her designees, to implement this Policy. The EEO Officer shall have primary responsibility for the conduct of investigation, mediation and resolution of complaints of unlawful discrimination, and the implementation of appropriate corrective strategies as required. The EEO Officer shall assist the President/CEO and Vice-Presidents in setting and achieving training objectives, and shall provide information to the President/CEO and the Vice-Presidents relevant

to the development of appropriate anti-discrimination policies and strategies to support diversity in the SCA workplace.

The EEO Officer shall report directly to the Vice-President/Administration, who shall ensure that the responsibilities of the EEO Officer are discharged competently. The person appointed as the EEO Officer may be assigned non EEO related responsibilities, however, implementing the SCA's EEO policies and procedures shall be given priority among the duties of the EEO Officer.

EEO Counselors shall be recruited from the SCA's staff to provide greater access for employees to seek assistance or file complaints. These counselors will be trained to discharge effectively their duties under this Policy. EEO Counselors shall receive instruction concerning EEO laws and the requirements of the SCA's EEO policies and discrimination complaint procedures, and the proper manner to investigate and resolve discrimination complaints. The EEO Officer shall supervise the activities of the EEO Counselors and consult with the SCA's Vice-President & General Counsel as appropriate.

Each Human Resources and EEO professional is also responsible for ensuring equal opportunity, for applicants and employees, as required by this Policy.

PROCEDURES

A. **EEO COMPLAINT AND INVESTIGATION PROCEDURES:**

1. **WHEN TO FILE A COMPLAINT**

Federal, state and city laws prohibit the following types of discrimination based on actual or perceived membership in a protected group. An employee or applicant for employment should consult with the SCA's EEO Officer or an EEO Counselor if he/she believes that he/she is being discriminated against by a manager, supervisor, another employee, an independent contractor of the SCA or a City agency because of: age, alienage or citizenship status, color, creed, disability, gender, marital status, national origin, prior record of arrest or conviction, race, religion, or sexual orientation.

An employee or applicant should follow the same procedure if s/he believes s/he has been sexually or otherwise harassed on any of the above listed bases by a manager, supervisor, other employee, or an independent contractor of the SCA or a City agency.

If an employee or employment applicant believes he/she is being harassed or retaliated against because he/she: (1) consulted with the EEO Officer or an EEO Counselor; (2) filed a discrimination complaint; or, (3) cooperated in the investigation of a complaint, he/she is encouraged to report this behavior to the EEO Officer or an EEO Counselor for investigation

and further action.

The EEO Officer or Counselor will assist the complainant to determine whether the issue he/she has raised is appropriate for resolution through the complaint process. Employees will not be retaliated against for consulting with the EEO Officer or a Counselor about a suspicion of discrimination or for filing a complaint or cooperating in an investigation.

Discrimination which may be unlawful may involve, but is not limited to, the following activities:

- (a) discriminatory treatment of employees or applicants in hiring, testing, work assignments, working conditions, salary and benefits, evaluation, promotion, training, transfer, discipline, termination, and any other term and condition of employment;
- (b) policies that have a disproportionate impact on a group protected by law, unless they are justified by business necessity;
- (c) failure to make a reasonable accommodation for an employee with a disability, or for an employee's religious observance; or
- (d) discriminatory harassment, intimidation, ridicule or insults.

Employees who have experienced conduct they believe is contrary to this policy have an obligation to take advantage of this complaint procedure. Please remember, the SCA cannot resolve issues that are not brought to its attention.

2. **WHERE TO FILE AN INTERNAL COMPLAINT OR SEEK ASSISTANCE WITH AN EEO MATTER**

You may file an internal EEO complaint or receive assistance with an EEO matter by contacting:

Marina Sgroi, EEO Officer
NYC School Construction Authority
30-30 Thompson Avenue
Long Island City, N.Y. 11101-3045
(718) 472-8064

or:

SCA EEO Counselors

See Exhibit 1 for list of Counselors

3. **MEETING WITH THE EEO OFFICER, COUNSELOR, OR DISCRIMINATION COMPLAINT INVESTIGATOR**

Any person who has a question or problem related to SCA's equal employment opportunity policy or wants to file a complaint of unlawful discrimination, should contact any of the persons listed above. An employee may consult with any SCA EEO Counselor and is not limited to those who work who work in the employee's particular department, division or work location. All complaints of discrimination filed with any EEO Counselor must be forwarded to the EEO Officer.

An employee has a right to meet privately with the EEO Officer or Counselor during work hours; however, the employee should obtain approval for leaving his/her work assignment. An employee need not disclose to a supervisor the details or the purpose of the meeting with the EEO Officer or Counselor. Reasonable requests to meet with the EEO Officer or Counselor during work hours shall not be denied by supervisors. Managers and supervisors shall allow employees to meet with the EEO Officer or Counselor at the earliest practicable time consistent with the operational needs of their units.

The EEO Officer or Counselor shall arrange to meet with an employee at outside premises where necessary to ensure confidentiality. At the employee's request, arrangements may also be made to hold the meeting before or after work hours or during the employee's lunch period.

An employee or applicant may bring a representative of his or her choice to the meeting, provided advance notice is given to the EEO Officer or Counselor.

In addition, a person who requires a sign language interpreter for a meeting concerning an EEO matter may request that the EEO Officer provide one.

4. **ANONYMOUS COMPLAINTS**

A person who wants to discuss a problem concerning discrimination without revealing his/her identity may do so by telephoning or writing the EEO Officer. In such cases, the EEO Officer will provide counseling and take such follow-up actions as may be appropriate given the constraints of anonymity. An anonymous complainant should be aware that it may be necessary for the EEO Officer or Counselor to investigate the alleged discriminatory behavior and take or recommend action to remedy unlawful behavior on behalf of the SCA, even if the complainant wishes to withdraw his/her complaint.

5. **CONFIDENTIALITY**

All EEO matters will be handled under the supervision of SCA's EEO Officer in consultation with the SCA's Vice-President & General Counsel as appropriate. The EEO Officer will treat complaints and other information provided by employees confidentially. This means that information obtained from a person who seeks the assistance of the EEO Officer will not be

discussed with other personnel except as necessary to investigate and resolve a complaint or other matter. (Additional confidentiality considerations concerning requests for reasonable accommodation by a person with a disability are summarized in Section B (4) below.)

6. **SERVICES AVAILABLE FROM THE EEO OFFICER AND EEO COUNSELORS**

The SCA's EEO Officer and Counselors will interview the person seeking assistance or filing a complaint to determine whether the person seeks counseling, mediation or wants to file (a) a written internal complaint of unlawful discrimination for investigation by the EEO Officer or EEO Counselor and/or (b) a formal complaint with an external administrative agency. (See Section A (10) below.)

The EEO Officer and Counselors are also responsible for arranging sign language interpreters and alternate forms of effective communication for persons with disabilities to facilitate access to EEO services.

(a) Counseling

The EEO Officer or Counselor will discuss with the person seeking assistance various options for handling the matter involved. These options may include further actions the employee could take on his or her own behalf or other informal assistance from the EEO Officer. The EEO Officer or Counselor shall also inform the person seeking assistance of their rights with respect to filing complaints of unlawful discrimination with city, state and federal regulatory offices.

(b) Mediation

Mediation is a voluntary dispute resolution process. If the person seeking assistance identifies another individual(s) as a party to the alleged unlawful discrimination, he/she may file a written request for mediation (see the Request for Mediation form in Exhibit 3). Mediation may be declined by any of the parties involved in the complaint. When a request for mediation has been made, the EEO Officer, serving as Mediator, shall attempt to assist the parties involved resolve the matter in dispute. In this process, the EEO Officer shall consult with the person who filed the request, the person named in the request, and other persons as appropriate.

If the parties agree to a resolution of the situation, the EEO Officer shall prepare a written mediation report detailing the proposed resolution. The President/CEO shall review the recommendation. If the proposed resolution is authorized by the President/CEO, the mediation report shall be signed by all parties and copies shall be given to them.

A request for mediation may be withdrawn at any time by the requesting party. Similarly, any party necessary to ongoing mediation may withdraw from further participation at any time. In such event, the EEO Officer shall inform all parties, in writing, of the termination of the mediation effort but shall not disclose the identity of the withdrawing party.

The EEO Officer may terminate the mediation process if he/she deems that the effort has been unproductive. In such event, the EEO Officer shall provide the parties with a written statement confirming the termination of mediation. The statement shall inform the person who sought mediation of the right to file a formal complaint of discrimination internally in accordance with the SCA discrimination complaint procedure and/or externally with city, state and/or federal regulatory agencies.

7. **INVESTIGATION OF COMPLAINTS**

A person may initiate an internal SCA formal complaint of unlawful discrimination by filing a written Discrimination Complaint form with the EEO Officer within the time frame established by the statute of limitations governing the events which are the subject of the complaint. A copy of the SCA Discrimination Complaint form is included in Exhibit 2. Requests for reasonable accommodation are not subject to any time limitations.

The EEO Officer may determine that another form of communication, such as a telephone call or letter, should be handled as a formal internal complaint. In such event, or when a person who has a disability which precludes his/her completion of the complaint form seeks to file a complaint, the EEO Officer shall complete a Discrimination Complaint form.

A Discrimination Complaint form shall also be completed by the EEO Officer when she/he initiates an investigation on his/her own initiative.

An investigation shall be conducted by the EEO Officer, an EEO Counselor or other person, as appropriate, acting under the direction of the EEO Officer. In appropriate cases, the investigation will be conducted in conjunction with the SCA's General Counsel.

If the EEO Officer receives a complaint of unlawful discrimination which alleges that the President has engaged, or is engaging, in unlawful discriminatory conduct, the EEO Officer shall bring the matter to the attention of the SCA Board of Trustees.

A complaint of unlawful discrimination which alleges that the EEO Officer has engaged, or is engaging, in unlawful discriminatory conduct should be made directly to the SCA's Vice-President & General Counsel.

Any person who is interviewed in the course of an investigation of a complaint of discrimination shall have the right to be accompanied by a representative of their choice.

Any person who has been named as the respondent in the complaint of discrimination shall receive a copy of the complaint and shall have the opportunity to respond in writing. The EEO Officer will make a confidential written report of the investigation to the

President/CEO through the Vice-President for Administration. If the EEO Officer or other investigating official concludes, on the basis of the investigation that a violation of anti-discrimination laws or the SCA's EEO policy has occurred, he/she shall recommend appropriate corrective action.

The President shall review the EEO Officer's report and authorize any corrective action that he/she deems appropriate.

The EEO Officer shall advise all parties in writing of the outcome of the complaint.

8. DISCIPLINE AND OTHER CORRECTIVE ACTION

The President shall review the EEO Officer's report and authorize any corrective action that he/she deems appropriate. Corrective action may include disciplinary measures against any party found to have violated anti-discrimination laws or the SCA's EEO policies. Corrective action in the form of disciplinary measures such as formal reprimand, suspension, probation, transfer, demotion, fine, or termination shall be taken in accordance with applicable provisions of law, rules and regulations, and collective bargaining agreements.

Corrective action may include measures necessary to address any adverse impact that unlawful discriminatory conduct or violation of law or SCA policy has had on the complainant.

9. WITHDRAWING COMPLAINTS OF DISCRIMINATION

A complaint of discrimination may be withdrawn at any time by the complainant. In most cases, this action will terminate the investigation. However, prior to making a determination to end the investigation, the EEO Officer shall assess whether evidence has been found which requires the SCA to take corrective action to prevent or eliminate unlawful discrimination. If such evidence exists, the EEO Officer shall continue the investigation until he/she is prepared to recommend whether the SCA should take corrective action. In either event, the EEO Officer shall notify the respondent in writing that the complainant has withdrawn the complaint. The EEO Officer shall also notify the parties that the investigation is continuing or has been terminated.

10. FILING A COMPLAINT WITH AN EXTERNAL REGULATORY AGENCY

Any person who believes that he/she has suffered unlawful discrimination has a right to file a formal complaint with federal, state or local agencies, some of which are listed below. A person does not waive this right when he/she files a discrimination complaint internally with the SCA EEO Officer. The following federal, state and local agencies enforce laws against discrimination:

**New York City
Commission on Human Rights**

40 Rector Street
New York, N.Y. 10006
(212) 306-7500
(800) 421-1220 (NY Relay Service English) (718) 741-8304 (TTY)
(877) 662-4886 (NY Relay Service Spanish) www.nysdhr.com
www.nyc.gov/cchr

**New York State
Division of Human Rights**

163 West 125th Street, 4th Floor
New York, N.Y. 10027
(212) 961-8650
(718) 741-8304 (TTY)

or

**United States Equal Employment
Opportunity Commission**

New York District Office
33 Whitehall Street, 11th fl.
New York, NY 10004
(212) 336-3620
www.eeoc.gov

**New York State
Division of Human Rights**

20 Exchange Place
New York, New York 10005
(212) 480-2522

or

55 Hanson Place, 3rd Floor
Brooklyn, New York 11217
(718) 722-2856

In addition to filing with the agencies listed above, a person alleging unlawful discrimination based on disability may file a complaint with:

United States Department of Justice

950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section - NYAV
Washington, DC 20530
(202) 514-0301
(800) 514-0301
(202) 514-0383 (TTY)
(800) 514-0383 (TTY)
www.ada.gov

NOTE: There are statutory deadlines for filing complaints with each of these external regulatory agencies. The deadline in some instances is as short as 180 days. Therefore, if you believe you have been discriminated against and wish to file a complaint with an external agency, to preserve your rights, promptly contact the City Commission on Human Rights, the State Division of Human Rights, the EEOC, the Department of Justice, or a private attorney for further guidance.

B. REASONABLE ACCOMMODATION PROCEDURE

1. INTRODUCTION

The NYC School Construction Authority will make reasonable accommodation to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs or to enjoy the equal benefits and privileges of employment, unless providing such an accommodation would impose an undue hardship upon the SCA. The requirement to provide reasonable accommodation applies to disabilities that are known, or should have been known to the employer. The reasonable accommodation process, including a description of key terms, is set forth below and should be followed by applicants and employees requesting reasonable accommodation.

2. KEY TERMS

A qualified applicant or employee is an individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of a position and who, with reasonable accommodation (if needed) or without accommodation (if none is needed), can perform the essential functions of that position (employee) or complete the application process (applicant).

A disability is (1) a physical, medical, mental or psychological impairment, or (2) a history of such an impairment, or (3) being regarded as having such an impairment.

Essential functions are duties that are fundamental to a position, including, among others, those for which the position exists, those that only a limited number of employees are available to perform, or those that cannot be delegated. Evidence of what constitutes an essential function may include, but is not limited to: the employer's judgment; written job descriptions, if any; the amount and/or proportion of time spent performing the function; the consequences of not requiring or performing such function; the terms of a collective bargaining agreement; and the work experience of incumbents.

Undue hardship is action that is excessively costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of an employer's business.

Reasonable accommodations, are modifications or adjustments to the application process, work environment, or the manner or circumstances under which a job or employment function is customarily performed, that promote equal employment opportunity for an individual with a disability. Reasonable accommodation enables a qualified applicant or employee with a disability to be considered for a position or to perform his/her essential functions, or to enjoy benefits and privileges of employment that are equal to those enjoyed by similarly situated employees without disabilities. Accommodations are not reasonable if they impose an undue hardship on the employer.

3. **EFFECTIVE COMMUNICATION AND OTHER ASSISTANCE**

The EEO Officer shall be responsible for ensuring effective communication between applicants or employees and SCA staff at every stage of the application and reasonable accommodation process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches.

The EEO Officer shall also be responsible for providing such other reasonable assistance as may be required by applicants, employees and supervisors throughout the reasonable accommodation and appeals process.

4. **CONFIDENTIALITY**

SCA personnel must respect employee confidentiality. All documentation and information concerning the medical condition or medical history of an employee requesting an accommodation shall be collected and maintained on forms separate from other personnel-related forms and shall be maintained by the EEO Officer in separate medical files. The information shall be treated as confidential medical records, except to the extent that (1) supervisors and first-aid and safety personnel need to be informed about work restrictions or reasonable accommodation; (2) first-aid and safety personnel need to be informed if the disability may require emergency treatment; and, (3) the EEO Officer, Vice-President & General Counsel or other authorized official investigating a complaint of discrimination and/or agency compliance with law is required to be provided with relevant information upon request.

5. **THE REASONABLE ACCOMMODATION PROCESS**

(a) **Overview**

The reasonable accommodation process should involve both the employer and the applicant or employee requesting reasonable accommodation. The process generally involves four steps. The SCA must ensure that the application, interviewing, and testing procedures are accessible by providing reasonable accommodation to applicants with disabilities. Although it is unlawful to inquire whether an individual has a disability, the SCA may inquire whether an accommodation is needed, particularly when a disability is apparent or suspected.

The reasonable accommodation process should be flexible and interactive. This process requires close coordination and cooperation between an applicant or employee and the SCA, primarily the immediate supervisor of the application process or the position. In some instances, an appropriate or reasonable accommodation might be

provided or implemented without the applicant or employee and the SCA proceeding in a step-by-step fashion. In more complex situations, however, the step-by-step approach will guide both the employee and the SCA in determining the parties' respective rights and responsibilities with a common goal of resolving issues within clearly defined time periods.

(b) Procedure

Step 1: Applicant or Employee Requests Reasonable Accommodation -- Initial Consultation

The employee or job candidate should complete a Reasonable Accommodation Request Form (Exhibit 4) and submit it to his/her immediate supervisor or, if the employee prefers, to the supervisor's supervisor. (The form should be made available to applicants at the first possible opportunity in the application process.) If a request for reasonable accommodation is made by an applicant to facilitate the application process, the SCA staff supervising the application procedure should assist the applicant in completing the form when requested, and in conjunction with the EEO Officer, process the request for accommodation. Upon request, supervisors shall assist employees in completing the form. The SCA staff member (in the case of applicants) or supervisors (in the case of employees) receiving the request, shall acknowledge each request by signing and dating the form in the space provided. One copy is to be returned to the applicant or employee and a second copy is to be filed with the EEO Officer, who is responsible for monitoring the process and indicating its outcome on the form. The submission by an applicant or employee of a request for reasonable accommodation shall not preclude the submission of subsequent requests.

Generally, it is the responsibility of the individual with a disability to inform the SCA of the need for an accommodation. The SCA must reasonably accommodate disabilities that are known to it, or should have been known to it, but need not accommodate other disabilities of which it is unaware.

Where the need for the requested accommodation is not apparent, the EEO Officer or the supervisor involved may ask an applicant or employee to provide documentation in support of the request. In limited circumstances, medical examinations or more detailed medical documentation may be required to determine whether the employee can perform the essential functions of the job and the accommodations that may be appropriate. However, SCA officials shall consult with the EEO Officer before requesting additional medical information.

After acknowledging a request for accommodation and providing copies to both the employee and the EEO Officer, the supervisor should either (1) implement the request and document the accommodation; or, (2) proceed to Step 2 of this procedure.

Step 2: Supervisor Analyzes Job to Determine its Purpose and Essential Functions

The reasonable accommodation process sometimes can be accomplished without a formal analysis of the job's essential functions and the employee's job-related limitations. Other situations are more complex, however, and require detailed analysis. The essential function inquiry, however, is not intended to second guess the SCA's business judgment as to the essential functions of a position or lower the performance standards required for that position.

Upon receipt of a request for reasonable accommodation, the supervisor shall examine the position to determine its purpose and its essential functions. Identifying the job functions that are essential is necessary to determine whether an employee with a disability is "qualified" for a position. With respect to applicants for employment, the SCA must make the application, interview, and testing process accessible, unless doing so would create an undue hardship for the SCA.

Step 3: Consultation With the Employee

After evaluating the position to determine its essential functions, the supervisor shall consult with the applicant or employee requesting the accommodation to assess the limitations that the disability imposes on the performance of each essential function. If reasonable accommodation is requested for the application process itself, the SCA staff supervising the process shall consult with the applicant to determine how the process may reasonably be made accessible to the individual with a disability.

During this consultation (where a conditional offer of employment has been extended) the supervisor and employee or applicant shall consider the manner in which any job related limitations can be overcome, discuss possible reasonable accommodations, and assess the effectiveness of each. The SCA shall consider the preferences of the applicant or employee and determine whether they are in the work environment. The SCA is not required to provide an accommodation that imposes undue hardship. A similar approach should be undertaken in identifying reasonable accommodations for the application process.

What Accommodations Are Reasonable?

Accommodations that are reasonable may include, but are not limited to, those listed below. The reasonableness of an accommodation will depend upon the circumstances of each case.

- making facilities physically accessible to and usable by people with disabilities (e.g., providing ramps, restroom grab bars, signage);

- restructuring a job (e.g., reallocating non-essential typing, telephone or other clerical assignments among employees, assignment of non-essential tasks to others, eliminating non-essential tasks);
- modifying work schedules (e.g., permitting alternative starting and ending times to avoid standing and jostling on subways);
- providing or modifying equipment, devices or materials (e.g., raising a desk on boards for an employee who uses a wheelchair, providing flashing lights and volume controls on intercoms and telephones, installing text telephones (TTYs), providing large-print computer display programs, or materials in alternative formats, including Braille, audio tape or enlarged print;
- providing qualified readers, interpreters or other support services during application, interview, testing processes, and during training and other employment-related activities, including employment-related social functions (e.g., office parties, picnics).

Where more than one possible reasonable accommodation exists, the SCA shall give primary consideration to the employee's preference in determining what accommodation it will provide. However, the SCA has the discretion to choose among various appropriate reasonable accommodations that would enable the individual to perform the essential functions of the job and reserves the right to offer a less expensive or intrusive alternative (even if not the employee's preference) if the result would be the same. If the cost of a requested accommodation imposes an undue hardship on the SCA, the employee with a disability shall be given the option of providing the accommodation or paying that portion of the cost that creates the undue hardship. However, the SCA may not shift the cost of providing accommodations to the employee to avoid a reasonable expenditure of funds in accordance with the circumstances.

Accommodations may also be deemed unreasonable if they impose an undue administrative hardship upon the SCA. For example, shifting tasks among clerical employees may be reasonable where a sufficient number of employees exist among whom the tasks can be distributed; however, such an accommodation may be unreasonable in a very small office with few employees.

Reasonable accommodation may also include permitting an employee with a disability to use aids or services that the SCA is not otherwise required to provide. For example, although the SCA would not be required to provide a motorized scooter to an employee with a mobility impairment, reasonable accommodation may include providing an area for the employee to secure his/her mobility aid at work, if necessary.

As noted above, some requests for reasonable accommodation can be granted and implemented immediately following their receipt without formal evaluation, consistent with this procedure. Such may be the case where the employee identifies the job-related limitations and the requested accommodation with specificity. For example, an employee who is deaf and who routinely uses a text telephone (TTY) can readily identify for the SCA that job-related limitation concerning the use of the telephone and the accommodation needed, a TTY. Under circumstances where it is obvious that providing the TTY will enable the employee to meet the job's essential functions, the TTY can be ordered, provided and documented without the more comprehensive analysis provided for in Steps 2 and 3. In these cases, the reasonable accommodation process is merely compressed; it is not eliminated.

What if Neither the SCA nor the Applicant or Employee Can Identify an Appropriate Reasonable Accommodation?

Sometimes, neither the supervisor nor the applicant or employee can identify possible reasonable accommodations. In those instances, the supervisor shall consult with the EEO Officer. The EEO Officer will seek to facilitate effective communication between the parties with the goal of identifying and implementing appropriate reasonable accommodation and, where a reasonable accommodation has been selected, shall monitor its implementation.

Step 4: Selection and Implementation of An Appropriate Reasonable Accommodation

Within 10 business days of the submission of a request for reasonable accommodation by an employee or applicant (or consultation between the parties with respect thereto), the supervisor to whom it was submitted shall either grant or deny the request in writing in the space designated for that purpose on the Request for Reasonable Accommodation form. If additional documentation supporting the request for a reasonable accommodation has been requested, the determination as to whether the request will be granted or denied shall be made within 10 business days of the receipt of the supporting documentation or the employee's objection to providing such documentation. Further, any accommodation authorized shall be provided or steps taken to implement the accommodation within the same period. If providing or implementing a reasonable accommodation will take longer than 10 business days, all steps taken to achieve the result shall be documented and discussed with the employee. In all instances, however, supervisors shall act as expeditiously as possible to provide reasonable accommodation. Employees may request the assistance of the EEO Officer in expediting the process.

When a supervisor denies a request for accommodation or provides an accommodation other than that preferred by the applicant or employee, the supervisor shall first consult with the EEO Officer. After such consultation, the supervisor shall inform the applicant or employee in writing on the Request for Reasonable Accommodation form: (1) the

accommodation, if any, that will be provided or (2) that the request has been denied. The consultation between a supervisor and the EEO Officer shall not delay such determination beyond 10 business days of receipt of the request for reasonable accommodation.

6. APPEALS TO THE PRESIDENT

An applicant or an employee may appeal to the SCA President/CEO any supervisory action or failure to act pursuant to this procedure. Within 10 business days of the receipt of the appeal, the President/CEO, or his/her designee, shall:

- a. obtain from the EEO Officer and review all documentation relating to the request for reasonable accommodation;
- b. meet with the supervisor and the applicant or employee;
- c. review the essential job functions, job-related limitations involving the disability of the applicant or employee and potential accommodations; and
- d. evaluate the reasonableness of the preferences of the applicant or employee and supervisor accommodation, giving primary consideration to the preferences of the applicant or employee.

Within 15 business days of receipt of the appeal, the President/CEO shall issue a written determination specifying the accommodation that shall be provided, if any, and directing the supervisor to implement such accommodation promptly. The EEO Officer shall monitor implementation of the reasonable accommodation.

7. DISCRIMINATION COMPLAINTS

This reasonable accommodation procedure is intended to ensure equal employment opportunities for employees with disabilities, but shall not impede the right of any employee to file a complaint with the SCA EEO Officer, an appropriate federal oversight agency under the Americans With Disabilities Act or the Rehabilitation Act of 1973, the State Division of Human Rights, the New York City Commission on Human Rights, or any other federal, state or local agency having jurisdiction over such matters or in any court of competent jurisdiction.

8. FOR FURTHER GUIDANCE

Throughout the reasonable accommodation process, employees or SCA officials may consult with SCA's EEO Officer, Marina Sgroi (718) 472-8064.

EXHIBIT 1: EQUAL EMPLOYMENT OPPORTUNITY COUNSELORS

EXHIBIT 2: DISCRIMINATION COMPLAINT FORM

EXHIBIT 3: REQUEST FOR MEDIATION FORM

EXHIBIT 4: REQUEST FOR REASONABLE ACCOMMODATION FORM

EXHIBIT 1

NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY

EEO COUNSELORS

Name	Division	Extension
Joseph Akkerman	A & E Building Services	8624
Cynthia Brooks-Richardson	Project Management – Manhattan	8089
Susie Drayton	Administrative Services	8828
Sarah Patterson	Contract Administration	8326

EXHIBIT 2

NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY

COMPLAINT OF DISCRIMINATION

Name _____

Title _____

Division _____

Supervisor _____

What is the alleged basis of discrimination? (Check all that apply.)

Age _____ Alienage/Citizenship _____ Color _____ Creed _____

Disability _____ Gender _____ Marital Status _____ Race _____

National Origin _____ Prior Record of Arrest/Conviction _____

Religion _____ Sexual Harassment _____ Sexual Orientation _____

Retaliation (for filing or assisting in an investigation of a complaint) _____

Please answer all of the following questions. Attach additional pages if necessary.

1. Name, title, and division of the person you believe discriminated against you.

2. Date(s) on which the discriminatory action took place.

3. Place where the discriminatory action took place.

4. Were there witnesses to the discrimination? Yes _____ No _____

8. What corrective action(s) do you want taken to address this matter?

I certify that I have read the above charge and that it is true to the best of my knowledge, information and belief. I have read the SCA policy concerning my rights to file a complaint with federal, state, and local civil rights enforcement agencies.

Date

Complainant's Signature

CONFIDENTIAL

Complainant's Name _____

Division _____

WITNESSES

Please list the name, title, and divisions of any witnesses to the discriminatory actions/incident.

Name	Title	Division
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

EXHIBIT 3

NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY

REQUEST FOR MEDIATION

Believing that I have a valid complaint of discrimination and desiring to resolve that complaint, if possible without resorting to formal investigation, I respectfully request that the SCA EEO Officer attempt to mediate my complaint in accordance with the SCA EEO Complaint and Investigation Procedures and the guidelines implementing those procedures.

Name of Complainant

Signature of Complainant

Date

Witnessed by:

Name of EEO Officer

Signature of EEO Officer

Date

EXHIBIT 4

NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY
REQUEST FOR REASONABLE ACCOMMODATION

The New York City School Construction Authority will make reasonable accommodation to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment and the employment process, unless providing such accommodation would impose an undue hardship. This form shall be made available and used by all applicants and employees requesting reasonable accommodation, in conjunction with the SCA's Reasonable Accommodation Policy and Procedure.

INSTRUCTIONS

Applicants should complete Sections I and II and submit this form to the SCA staff person supervising the application process. **Current employees** should complete Sections II and III and submit this form to their immediate supervisors. **Supervisors** receiving requests for reasonable accommodation should complete Section IV, return one copy of the completed form to the applicant or employee requesting the accommodation and immediately forward one copy to the SCA EEO Officer. The EEO Officer should complete and update Section V as appropriate when the request has been granted or denied or when an appeal has been made to the President & CEO (whichever occurs first).

SECTION I - This section should be completed by both applicants and current employees.

Name

Address

Telephone #

Accommodation Requested (Attach additional sheets and supporting documentation as appropriate).

SECTION II - This section should be completed only by a job applicant.

Position/title applied for

Job Posting Number (if known)

Division (if known)

List the part(s) of the employment process (e.g., application, examination, interview) for which the accommodation is requested.

SCA Contact (if known)

Date accommodation is required

SECTION III - This section should be completed only if you are a current employee of the SCA (even if you are currently on a leave of absence).

Position/Title

Division

Supervisor

SECTION IV - This section is to be completed by SCA staff supervising the employment application process or supervising the employee who is requesting an accommodation.

Supervisor's Name and Title

Division

Telephone #

Date Request Received

Signature of Supervisor

After completing this section, the supervisor must return one copy of this form to the applicant or employee making the request; send one copy to the SCA EEO Officer; and take such further action as is required by the Reasonable Accommodation Policy and Procedure.

SECTION V - This section is to be completed by the SCA EEO Officer

Name

Date Received

Signature of EEO Officer

Comments-----

