Policy and Operating Guideline

Title	Equal Employment Opportunity (EEO)
Policy Number	EEO-001
Responsible Office	Equal Employment Opportunity (EEO) Office
Applicability	SCA Employees
Effective Date	01/30/2014
Date Revised	12/05/2024

Overview

The New York City School Construction Authority (SCA) is an equal opportunity employer that is committed to maintaining an inclusive and respectful workplace free from unlawful discrimination, harassment, and retaliation. The SCA makes employment decisions based on merit, fitness, and equality of opportunity, and without regard to characteristics that are protected under the law. The SCA is guided by the principle that diverse talents and perspectives are what best fulfill its mission and objectives.

The SCA's Equal Employment Opportunity (EEO) Office proactively educates employees about the law, investigates complaints, and takes immediate action to end unlawful conduct. The SCA's EEO Office also ensures a work environment free from sexual harassment (see Sexual Harassment Policy EEO-002) and provides reasonable accommodations to workers (see Reasonable Accommodation Policy EEO-003).

Key Terms

Discrimination – The unfavorable treatment of a person or a group that: (1) is based on their actual or perceived EEO-protected category, and (2) affects the terms and conditions of their employment.

Harassment – Conduct based on a person's actual or perceived EEO-protected category that has the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive work environment.

Retaliation – Retaliation occurs when an adverse employment action is taken against an individual for engaging in protected activity, such as filing an EEO complaint.

Complainant – A person who files a complaint of discrimination, harassment, or retaliation with the SCA's EEO Office.

Witness – A person who may be able to provide the SCA's EEO Office with relevant information during an investigation based on what they saw, heard, or know.

Respondent – A person against whom an SCA EEO complaint is filed. The SCA can also be named as a Respondent.

EEO-Protected Categories

The EEO-protected categories listed below are derived from federal, state, and city laws. These laws, as well as the SCA's EEO Policy, prohibit discrimination and harassment based on a person's actual or perceived membership in one or more EEO-protected categories.

- Age
- Arrest/Conviction Record or Pending Case
- Cannabis Use
- Caregiver Status
- Color
- Consumer Credit History
- Disability (physical or mental)
- Familial Status
- Gender/Sex (including Pregnancy, Childbirth, or Related Medical Condition)
- Gender Identity or Expression
- Height or Weight
- Immigration or Citizenship Status
- Marital or Partnership Status
- Military or Veteran Status
- National Origin or Ethnicity
- Predisposing Genetic Characteristics
- Pre-Employment Marijuana Testing
- Race
- Religion or Creed
- Salary or Pay History
- Sexual Orientation
- Sexual and Reproductive Health Decisions
- Unemployment Status
- Victim of Domestic Violence, Stalking, or Sex Offenses

Terms and Conditions of Employment

The SCA's EEO Policy prohibits decisions and practices based on a person's EEO-protected category that unlawfully affect the terms and conditions of a person's employment. These terms and conditions of employment include, but are not limited to:

- Application Process
- Benefits
- Career Development
- Discipline
- Demotion
- Discharge/Termination
- Leaves of Absence
- Hiring
- Promotion
- Performance Evaluation
- Recruitment
- Salary
- Transfer
- Training Opportunities
- Testing
- Work Assignments
- Working Conditions

Applicability of the SCA's EEO Policy

Unlawful discrimination, harassment, and retaliation are strictly prohibited under the SCA's EEO Policy. All SCA employees must comply with the SCA's EEO Policy.

A. Who is Covered

SCA employees are prohibited from violating the EEO rights of other employees, applicants for employment, non-SCA staff, interns, volunteers, vendors, contractors, subcontractors, and members of the public. Additionally, SCA employees are prohibited from aiding, abetting, inciting, compelling, or coercing any person, including non-employees, to engage in conduct that violates the SCA's EEO Policy. The SCA's EEO Office has authority to investigate EEO allegations filed against current SCA employees.

When an EEO complaint is filed against a non-SCA staff member, the SCA's EEO Office refers the matter to the individual's employer, if appropriate.

B. Covered Locations

The SCA's EEO Policy extends to prohibited conduct that occurs in any SCA workplace, as well as prohibited conduct that occurs in any extension of the workplace, including but not limited to SCA-sponsored events or parties, SCA vehicles, field locations, telework locations, and facilities where SCA business is being conducted or discussed.

Additionally, the SCA's EEO Policy extends to prohibited conduct that occurs off-duty and impacts the workplace. For example, calls, texts, emails, and social media usage that negatively impact the workplace can constitute harassment, even when they occur away from workplace premises, on personal devices, or during non-work hours (see Social Medial Policy and Operating Guideline HR-045).

C. Prohibited Conduct

Discriminatory conduct based in whole, or in part, on a person's EEO-protected category are prohibited, regardless of whether they are intentional or the result of disparate impact of a neutral policy or procedure. Additionally, individuals who are protected under the SCA's EEO Policy may not be treated less well based on their association with someone who is a member of an EEO-protected category.

Prohibited harassment includes offensive or objectionable conduct that relates to any EEO-protected category. This includes, but is not limited to, derogatory or demeaning statements, slurs, jokes, epithets, gestures, notes, materials, images, or communications. Conduct can constitute harassment even if it is unintentionally offensive or unintentionally directed at a particular person or group. Harassment is prohibited even when the person engaging in the conduct and the recipient share the same protected category.

Discriminatory conduct and harassment may violate the SCA's EEO Policy even if they do not rise to the level of a violation of law. A single, isolated incident can be addressed under the SCA's EEO Policy.

The SCA's EEO Policy does not cover all workplace-related misconduct. Inappropriate conduct that is not based on an EEO-protected category falls outside the scope of the SCA's EEO Policy and should be raised with the SCA's Human Resources (HR) Department.

EEO Complaint Process

A. Filing a Complaint

Individuals who believe they have been subjected to a violation of the SCA's EEO Policy are urged to promptly report complaints directly to the SCA's EEO Office. Complaints can be made orally or in writing. Complainants are encouraged to use the EEO Complaint Form, but it is not required. Individuals may also file complaints on behalf of someone else.

Complainants can request that the SCA's EEO Office keep their identity confidential. In such cases, the SCA's EEO Office will take action that is appropriate and possible. In some instances, an investigation cannot proceed without disclosing the Complainant's identity.

Complainants must report their allegations to the SCA's EEO Office within one year of the date of the alleged incident(s). If there is an allegation of continuing harm or violation, at least one alleged act should fall within the one-year period. Otherwise, the SCA may be barred from taking action due to late reporting.

Complainants must report allegations in good faith, which requires an honest belief or purpose. It is a violation of the SCA's EEO Policy to knowingly make a false statement or otherwise deliberately provide false or misleading information during an EEO investigation. Such conduct may be grounds for discipline, up to and including termination. A complaint made in good faith is not considered a false claim, even if the allegations are unsubstantiated after an investigation.

Complainants may request to withdraw their complaint if done so voluntarily, in writing, and while the case is pending. Nonetheless, in some cases, the SCA's EEO Office may need to continue the investigation despite the withdrawal request.

If an EEO complaint is filed against personnel of the SCA's EEO Office or the SCA President & CEO, it may be referred to a third-party for investigation.

B. Mandatory Reporters

Supervisors, managers, and human resources personnel are Mandatory Reporters and must immediately notify the SCA's EEO Office if they receive an EEO complaint or otherwise become aware of a potential violation of the SCA's EEO Policy. Mandatory Reporters should also encourage Complainants to consult directly with the SCA's EEO Office.

Although only Mandatory Reporters have a duty to report alleged EEO violations to the SCA's EEO Office, all individuals are encouraged to report such allegations to the SCA's EEO Office for investigation and handling. Reporters are encouraged to use the Mandatory Reporter Form, but it is not required.

The SCA's EEO Office may initiate an investigation even when there is no formal complaint of discrimination, harassment, or retaliation. For example, the SCA's EEO Office may investigate social media postings or press accounts that implicate the SCA's EEO Policy.

C. Investigation Procedure

The SCA's EEO Office reviews complaints to determine whether they are appropriate for the investigation process. The SCA's EEO Office will consider whether the allegation involves a violation of law or the SCA's EEO Policy and whether the allegation is related to employment.

When the SCA's EEO Office accepts a complaint for investigation, it notifies the Complainant and Respondent, in writing, of the allegations that it will investigate. The SCA's EEO Office conducts investigations in a neutral, unbiased, and impartial manner. Investigations generally include interviewing the Complainant, Witnesses, and Respondent, and analyzing documents and any other evidence.

Upon request, Respondents are entitled to receive a redacted copy of the case's EEO Complaint Form, or when no Complaint Form is available, a summary of the complaint. While the investigation is pending, the Respondent may provide the SCA's EEO Office with a written response to the allegations. Respondents have the right to be accompanied by their own representative, such as an attorney or union representative, during their EEO interview.

All SCA employees are required to cooperate with SCA EEO investigations. This includes appearing for interviews, providing honest and truthful information, and supplying relevant documents and evidence that are relevant to the investigation's resolution. SCA employees who fail to cooperate with EEO investigations may face disciplinary action, up to and including termination.

To protect the privacy of those involved and ensure the integrity of the investigative process, all individuals who participate in EEO investigations must maintain confidentiality. This means that Complainants, Mandatory Reporters, Witnesses, and Respondents may not discuss any aspect of the investigation with other staff members, other than their own representatives. SCA employees who breach confidentiality in EEO investigations may face disciplinary action, up to and including termination.

The SCA's EEO Office keeps EEO matters confidential, to the extent possible. An effective investigation may require revealing relevant information to certain individuals. Additionally, information may be disclosed during any resulting disciplinary proceeding, litigation, or as otherwise required by law. Information regarding the EEO matter will be shared only with those who have a need to know, and all related records will be maintained in a secure location.

The SCA's EEO Office conducts investigations in a thorough and timely manner. Absent extraordinary circumstances, investigations are concluded within 90 days from the date on which the complaint was accepted for investigation. The SCA's EEO Office issues written status updates to Complainants and Respondents every 30 days. If the SCA's EEO Office experiences a delay in investigating the complaint, it will issue a written delay notification to Complainants and Respondents.

No SCA employee, aside from those authorized in the SCA's EEO Policy, may investigate, mediate, or facilitate resolution of an EEO complaint without written authorization from the SCA President & CEO.

If an allegation is not based on prohibited conduct or an EEO-protected activity, the SCA's EEO Office may make appropriate referrals or may take additional steps, such as facilitating dispute resolution or training, even when it does not conduct a formal investigation.

D. Determination

At the conclusion of the SCA EEO Office's investigation, it submits a confidential written report to the SCA President & CEO. The report documents the allegation, details the investigative steps, and states the findings and recommended determination. The SCA President & CEO either adopts the EEO Office's recommendation or returns it to the EEO Office for revision or further action. The SCA's EEO Office notifies Complainants and Respondents of the determination in writing.

If there is sufficient credible and corroborating evidence that an EEO violation has occurred, the SCA's EEO Office will substantiate the allegation(s). Any person who is found to have engaged in conduct or practices in violation of the SCA's EEO Policy may face disciplinary action, up to and including termination.

If there is insufficient credible and corroborating evidence that an EEO violation occurred, the SCA's EEO Office will unsubstantiate the allegation(s).

In some circumstances, the SCA's EEO Office may administratively close a case without making a finding that an EEO violation occurred. For example, the SCA's EEO Office may administratively close matters involving allegations that, if true, would not violate the SCA's EEO Policy. Similarly, the SCA's EEO Office may administratively close matters in which it provides advice or brief counseling that do not rise to the level of an investigation.

The SCA's EEO Office takes corrective, preventative, and remedial action whenever necessary. For example, even if an allegation is unsubstantiated, the EEO Office may recommend coaching, mediation, or training for the individuals involved.

E. Mediation

Mediation is a voluntary, informal, and confidential alternative dispute resolution process. During mediation, parties meet with a neutral, third-party mediator and attempt to resolve issues raised by a complaint through mutual agreement. Mediation is an alternative that may quickly resolve complaints without a full investigation.

Mediation may be requested by any party and may be declined by any party. All requests for mediation should be made to the SCA's EEO Office, which will determine whether the complaint is appropriate for mediation. The SCA's EEO Office may choose to conduct the mediation internally, within the SCA, or externally, through entities that provide mediation services.

Any party may choose to end mediation before a resolution is reached. If the mediation is terminated, or if the mediation does not result in resolution, the EEO Office will continue its investigation.

Anti-Retaliation

The SCA and its employees are prohibited from taking adverse employment action against an individual for engaging in protected activity. Protected activity includes reporting or opposing discrimination or harassment, as well as cooperating with an EEO investigation. Adverse employment action can include threats, reprimands, denial of training opportunities, negative performance evaluations, transfers, and discipline.

Additionally, retaliation includes any action that would have the effect of dissuading or discouraging an individual from coming forward to make or support a claim of discrimination or harassment.

It is also a violation to retaliate against someone because of their association with an individual who asserted their EEO rights.

Any person who is found to have engaged in retaliation in violation of the SCA's EEO Policy may face disciplinary action, up to and including termination.

External Filing Options

In addition to the internal process for filing EEO complaints, individuals may file a complaint with the federal, state, and local enforcement agencies which are responsible for enforcing EEO laws. External agencies have different deadlines and requirements for filing complaints. Below is a list of some, but not all, external agencies and their respective websites for more information:

U.S. Equal Employment Opportunity Commission	https://www.eeoc.gov/
New York State Division of Human Rights	https://dhr.ny.gov/
New York City Commission on Human Rights	https://www.nyc.gov/cchr

If a Complainant files an external complaint or lawsuit while an internal investigation based on the same facts and circumstances is pending, the SCA's EEO Office will administratively close the case and refer it to the Office of General Counsel for handling.

Forms
EEO Complaint Form
Mandatory Reporter Form

Related Policies and Operating Guidelines

EEO-002: Sexual Harassment
EEO-003: Reasonable Accommodation
HR-045: Social Media

Contacts

Title	Department	Phone
Director, Operations	Equal Employment Opportunity	(718) 472-8101
Senior Director, Human Resources	Human Resources	(718) 472-8066
General Counsel	Office of the General Counsel	(718) 472-8220