

COMPLAINTS AND GRIEVANCES BY EMPLOYEES

In accordance with the provisions of General Municipal Law and the collective bargaining agreements, all District personnel shall have the opportunity to present their complaints or grievances free from interference, coercion, restraint, discrimination or reprisal. The District shall provide at least two (2) procedural stages and an appellate stage for the settlement of any grievance.

Complaints or grievances not covered under employee contracts shall be handled and resolved, whenever possible, as close to their origin as possible. The Superintendent is responsible for implementing regulations for the redress of complaints or grievances through proper administrative channels.

Prohibition of Retaliatory Behavior

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discrimination. Follow-up inquiries shall be made to ensure that discrimination has not resumed and that all those involved in the investigation of the discrimination complaint have not suffered retaliation.

Complaints and Grievances Coordinator

Additionally, the Board shall ensure compliance with Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Americans With Disabilities Act (ADA). The Superintendent shall designate a District employee as the Title IX/Section 504/ADA Coordinator; and regulations and procedures shall be implemented to resolve complaints of discrimination based on sex or disability.

Prior to the beginning of each school year, the District shall issue an appropriate public announcement which advises students, parents/guardian, employees and the general public of the District's established grievance procedures for resolving complaints of discrimination based on sex or disability. Included in such announcement will be the name, address and telephone number of the Title IX/Section 504/ADA Coordinator.

The Title IX/Section 504/ADA Coordinator shall also be responsible for handling complaints and grievances regarding discrimination based on race, color, creed, religion, national origin, political affiliation, sexual orientation, age, military status, veteran status, marital status, predisposing genetic characteristics, or use of a recognized guide dog, hearing dog or service dog.

References:

Age Discrimination in Employment Act, 29 United States Code (USC) Section 621
Americans With Disabilities Act, 42 United States Code (USC) Section 12101 et seq.
(Prohibits discrimination on the basis of disability).
Section 504 of the Rehabilitation Act of 1973, 29 United States Code (USC) Section 794 et seq.

Title VI of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000d et seq.
(Prohibits discrimination on the basis of race, color or national origin).
Title VII of the Civil Rights Act of 1964, 42 United States Code (USC) Section 2000e et seq.
(Prohibits discrimination on the basis of race, color, religion, sex or national origin).
Title IX of the Education Amendments of 1972, 20 United States Code (USC) Section 1681 et seq.
(Prohibits discrimination on the basis of sex).

Civil Rights Law Section 40-c
(Prohibits discrimination on the basis of race, creed, color, national origin, sex, marital status, sexual orientation or disability).
Executive Law Section 290 et seq.
(Prohibits discrimination on the basis of age, race, creed, color, national origin, sex, sexual orientation, disability, military status, predisposing genetic characteristics, marital status, or use of a recognized guide dog, hearing dog or service dog).
Military Law Sections 242 and 243

REGULATION: EMPLOYEE DISCRIMINATION GRIEVANCE GUIDELINES

General Statement

The Sharon Springs Central School District does not discriminate on the basis of sex, sexual orientation, age, military status, veteran status, marital status, political affiliation, race, creed or religion, color, national origin, domestic violence victim status, use of a recognized guide dog, hearing dog or service dog, or disability in the employment and educational opportunities it offers, including vocational educational opportunities as required by Title IX of the 1972 Educational Amendments, Section 504 of the Rehabilitation Act of 1973 and Section 296 et seq. of the Executive Law of New York State.

Guidelines

Employees of the Sharon Springs Central School District are protected from discrimination in the following areas:

- 1) Access to employment:
 - a. Recruitment policies and practices
 - b. Advertising
 - c. Application procedures
 - d. Testing and interviewing practices
- 2) Hiring and promotion:
 - a. Selection practices
 - b. Application of nepotism policies
 - c. Demotion, lay off, termination
 - d. Tenure
- 3) Compensation:
 - a. Wages and salaries
 - b. Extra compensations
- 4) Job assignments:
 - a. Classification and position descriptions
 - b. Lines of progression
 - c. Seniority lists
 - d. Assignment and placement
- 5) Leaves of absence:
 - a. Leaves in accordance with the Family and Medical Leave Act (FMLA) (i.e., birth, adoption, or placement for foster care of a child; to care for an employee's spouse or parent/guardian suffering from "a serious health condition"; for a "serious health condition" rendering the employee unable to perform his/her job; and military family leave entitlements.
 - b. Other Paid or unpaid leaves (i.e., Emergency Service Volunteer leave; Screening for breast cancer and prostate cancer; Blood donation; Bone Marrow donation; Nursing mothers to express breast milk; and Military leave).

- 6) Fringe benefits:
 - a. Insurance plans
 - b. Retirement plans
 - c. Vacation time
 - d. Travel opportunities
 - e. Selection and support for training
 - f. Employer-sponsored programs
- 7) Labor organization contracts or professional agreements.

Grievance Process

Any employee suspecting discrimination on the basis of sex, sexual orientation, age, marital status, military status, veteran status, political affiliation, race, creed or religion, color, national origin, disability, use of a recognized guide dog, hearing dog or service dog or domestic violence victim status may make a claim of discrimination. This claim or grievance is filed with the Superintendent/designee who will assist with the grievance process if necessary. The following information should be included on the grievance:

- 1) The exact nature of the grievance - actions, policies, or practices believed to be discriminatory and any person(s) believed to be responsible.
- 2) The date, time and place of the alleged discriminatory action(s).
- 3) The names of witnesses or persons who have knowledge about the grievance.
- 4) Any available written documentation or evidence that is relevant to the grievance.
- 5) The actions that could be taken to correct the grievance.

The Superintendent/designee shall cause a review of the grievance to be conducted (including necessary meetings and interviews) and a written response mailed to the complainant within ten (10) school days after receipt of the complaint.

If it is agreed that discrimination occurred, corrective action will be taken to restore denied rights.

If there is not agreement, a written appeal may be submitted to the Board of Education indicating the reasons for disagreement. The Board of Education shall consider the appeal at its next regularly scheduled meeting following receipt of the appeal.

A complaint of illegal discrimination may also be filed with the Federal Office for Civil Rights, United States Department of Education, or the New York State Division of Human Rights.

Civil Penalties in Employment Discrimination Matters

Effective July 6, 2009, the New York Human Rights Law was amended to provide for civil fines and penalties, payable to the State, of up to \$50,000 for unlawful acts of employment discrimination, and up to \$100,000 for willful, wanton, or malicious discrimination. With the enactment of the new law, these penalties may now be assessed in all cases of employment discrimination. Under the legislation, an employer with fewer than fifty (50) employees may be allowed to pay the civil fines and penalties in installments.

The new civil fines do not replace or limit other relief under New York Human Rights Law that may be awarded to a prevailing complainant which includes, but is not limited to, affirmative relief from the employer (e.g., an order that the individual be hired, promoted or reinstated by the employer), back pay and other compensatory damages (e.g., emotional distress damages). Punitive damages and attorneys' fees are not currently payable to a prevailing complainant. These remedies, however, may be available to a prevailing plaintiff in a court action.

If it is agreed that discrimination occurred, corrective action will be taken to restore denied rights.

If there is not agreement, a written appeal may be submitted to the Board of Education indicating the reasons for disagreement. The Board of Education shall consider the appeal at its next regularly scheduled meeting following receipt of the appeal.

A complaint of illegal discrimination may also be filed with the Federal Office for Civil Rights, United States Department of Education, or the New York State Division of Human Rights.

Prohibition of Retaliatory Behavior (Commonly Known as "Whistle-Blower" Protection)

The Board prohibits any retaliatory behavior directed against complainants, victims, witnesses, and/or any other individuals who participated in the investigation of a complaint of discrimination. Follow-up inquiries shall be made to ensure that discrimination has not resumed and that all those involved in the investigation of the discrimination complaint have not suffered retaliation.