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Sanford Rich
Executive Director
Board of Education Retirement System
65 Court Street, 16th Floor
Brooklyn, NY 11201-4965

Audit Status:

Evaluation of Sexual Harassment Prevention and Response Practices for Audit Period January 1, 2018 to December 31, 2019.

Determination: **PRELIMINARY**

Dear Executive Director Rich:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you and your agency for the cooperation extended to our staff thus far. This letter contains the EEPC's evaluation and preliminary determinations pursuant to the Board of Education Retirement System's Sexual Harassment Prevention and Response Practices for the period covering January 1, 2018 to December 31, 2019.

Purpose

Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective equal employment opportunity (EEO) for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed.

The Board of Education Retirement System, hereinafter simply termed "agency" or "entity," falls within the EEPC's purview under Chapter 36, Sections 830(a) and 831(a) of the Charter, to review, evaluate, and monitor the coordination and implementation of affirmative employment programs of equal employment opportunity for any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

The purpose of this audit and analysis is to evaluate the subject matter referenced, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope

The EEPC has adopted uniform standards for auditing municipal entities¹ and minimum standards for auditing Community Boards (collectively “Standards”) to review, evaluate, and monitor entities’ employment and EEO-related practices, procedures, approaches, measures, standards, and programs. These standards are founded upon, and consistent with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination. Corrective actions prescribed are consistent with the aforementioned parameters including, but not limited to, the City of New York’s *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies 2014*, as amended (Citywide EEO Policy); the New York City Human Rights Law (New York City Administrative Code Title 8); New York State Human Rights Law (New York Executive Law, Article 15); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

Policy and Plan Requirements

The aforementioned Standards require, at minimum, that mayoral entities distribute the Citywide EEO Policy; non-mayoral entities establish or adopt a comprehensive EEO policy; and Community Boards, which are comprised of members appointed by the respective Borough Presidents, adopt and distribute the corresponding Borough President’s EEO Policy.

Because the EEPC is authorized to review and recommend actions that each entity should consider including in its annual plan of measures and programs to provide equal employment opportunity, or Annual EEO Plan, entities are also required to incorporate the EEPC’s corrective actions in prospective Annual EEO Plans and programs.

Methodology

The EEPC communicates with EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and other employees identified as having involvement in EEO program administration such as the Principal Human Resources Professional and relevant Counsel.

The EEPC’s audit methodology includes review of the agency’s Annual EEO Plans and Quarterly EEO Reports; analysis of workforce and utilization data; and the collection and analysis of documents, records, and data an entity and its representatives provide in response to the Sexual Harassment Prevention and Response Preliminary Interview Questionnaires (PIQs). All PIQs contain requests to attach supporting documentation for the answer options selected.

EEO Professionals designated for online interviews are assigned a three-week deadline to complete and return the PIQs. The EEPC’s PIQ(s)/requests were sent to the Board of Education Retirement System on January 3, 2020; the completed PIQ(s) were returned on January 23, 2020. Partial documentation was attached. Additional requests for information were made on March 12, 2020, April 14, 2020, April 22, 2020, and April 27, 2020.

The following determination indicates where the Board of Education Retirement System has or has not complied, in whole or in part, with the established Standards.

¹ Corresponding audit/analysis standards are numbered throughout the document.

Description of the Agency

The New York City Board of Education Retirement System (BERS) was founded on August 1, 1921 to provide retirement benefits for civil service employees permanently employed by the City and School District of New York other than those who may retire under the provisions of other retirement laws. BERS has since expanded to include other employees, such as provisional and part-time employees of the Department of Education (DOE) and other covered employers. BERS members are employed in such agencies as the Department of Education, the School Construction Authority, the Police Department and the Transit Authority.

The Head of the Retirement System is the Board of Trustees. The Board, subject to the limitations of the BERS Rules and Regulations and of law, establishes the policies for the administration and transaction of the business of the System and for the control of funds. The Board of Trustees consists of thirteen (13) Panel for Educational Policy members, the Chancellor and two (2) employee-members elected by the membership. The term of each employee-member is four years beginning the first of January following a regular election. Each employee-member has an alternate, who will serve the duration of the term of office. (Source: The Green Book 3/2019). At the end of the period in review, BERS reported it had 111 employees (*Diversity and Equal Employment Opportunity Plan* for fiscal year 2019).

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

I. Issuance, Distribution and Posting of EEO Policies

Determination: The agency is in partial-compliance with the standards for this subject area.

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- BERS did not demonstrate that, during the period in review, it issued a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment. **Corrective Action Required.**

NOTE: Subsequent to the period in review, on June 1, 2020, BERS posted, but did not demonstrate distribution or notification of the posting to its employees, a *Public Notification of Non-Discrimination Policy* on the entity website that contained a *Sexual Harassment in the Workplace* section. The *Sexual Harassment in the Workplace* section provided the definition of, and explicitly prohibited, sexual harassment. In addition, BERS's website also demonstrated that the entity had a *BERS Mission Statement on Sexual Harassment* and a *BERS Equal Employment Opportunity Policy Statement* that were available as an individual hyperlink which generated the document to a PDF. The *BERS Mission Statement on Sexual Harassment*, which was not dated, indicated the entity's commitment to the prevention of sexual harassment by stating, "[s]exual harassment is a form of sex discrimination ... Sexual harassment is also a violation of the Board of Education Retirement System Non-Discrimination Policy." The undated *BERS Equal Employment Opportunity Policy Statement* declared, "[a]s Executive Director, I reaffirm BERS strong commitment to maintaining fair employment practices for all of its members: Federal, State and/or local laws prohibit employment discrimination based on: ... gender

(including gender identity and sexual harassment)[.] ... All employees are directed to comply with both the letter and the spirit of these laws.”

NOTE: BERS should ensure that all employees are notified of the postings on its website at least annually.

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

- ✓ In response to the EEPC’s PIQs, BERS stated, “[o]ur EEO policies are available for staff and public consumption on our website.” BERS’s website demonstrated that the entity had an *Executive Director’s Regulation A-1* hyperlink that generated a PDF document. The *Executive Director’s Regulation A-1* PDF had an issue date of July 2017 and was addressed to *Employees* with the following subject: *Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination*. The *Executive Director’s Regulation A-1* contained an *Abstract* section that stated, “[t]his 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.” It also indicated that “[n]otice 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 EEO, and indicates where a copy of this regulation may be obtained[.]” The *Executive Director’s Regulation A-1* contained sections entitled *Policy; Reporting; and Complaint Procedures* (which provided procedures for investigating discrimination/sexual harassment complaints) and provided a definition of anti-discrimination, including examples of prohibited conduct, along with a list of protected classes. In addition, the *Executive Director’s Regulation A-1* contained the *Public Notification of Anti-Discrimination Policy* as an attachment to the regulation. The *Public Notification of Anti-Discrimination Policy* listed the current office address and phone number for the U.S. Department of Education’s Office for Civil Rights and the New York State Division of Human Rights; the current phone number for the New York City Commission on Human Rights; and the current office address for the U.S. Equal Employment Opportunity Commission as agencies that enforced laws against discrimination/sexual harassment. The *Public Notification of Anti-Discrimination Policy* also contained the phone number and address for both BERS’s principal EEO Professional and the EEO Office. (The *Executive Director’s Regulation A-1* is attached as Appendix – 1).

- BERS did not demonstrate that it distributed the *Executive Director’s Regulation A-1*, and its attachments, to all employees, or advised all employees of their postings on the BERS website as required by *Executive Director’s Regulation A-1*. In addition, the *Complaint Procedures* section of

the *Executive Director's Regulation A-1* did not contain responsive procedures for investigating sexual harassment. Specifically, the *Complaint Procedures* section of the *Executive Director's Regulation A-1* did not include the following stipulations: serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice; maintain in the complaint file documentation regarding the service of notice on the respondent; issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office; take thorough notes, of words spoken and facts provided, during each interview and include the notes in each complaint file; in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report, and notify the complainant and respondent of the delay; generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review; the agency head (or an approved direct report other than the General Counsel) must sign each determination of the conclusive report, via writing or electronically, to indicate it has been reviewed and adopted; ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result; and notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint. In addition, the *Public Notification of Anti-Discrimination Policy* attachment to the *Executive Director's Regulation A-1* did not contain the current address for the New York City Commission on Human Rights; or the current phone number to the U.S. Equal Employment Opportunity Commission. **Corrective Action Required.**

Corrective Action #1: Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies — or an agency Policy that conforms to city, state and federal laws against sexual harassment—for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

II. Training for the Agency

Determination: The agency is in partial-compliance with the standards for this subject area.

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
- ✓ Signed training logs from June 13, 2018 (fiscal year 2018), indicated that 49 employees (approximately 44% of the workforce²) received *Basic EEO/Sexual Harassment Training* at the BERS office. In addition, BERS established a training plan in its *Diversity and Equal Employment*

² Based on the headcount reported via BERS *Diversity and Equal Employment Opportunity Plan, Fiscal Year 2019.*

Opportunity Plan for fiscal years 2019 and 2020 for all employees (111 employees in fiscal year 2019 and 116 in fiscal year 2020) to complete the Department of Citywide Administrative Services' (DCAS) *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* computer-based training. The course objective on DCAS' Human Capital website stated that the training, "...will facilitate awareness of the City's prohibition on sexual harassment in its workplaces under applicable laws and the City's Equal Employment Opportunity (EEO) Policy. Participants will learn the definitions of sexual harassment, relevant legislation, prevention techniques and a procedure for filing a complaint. This course will help participants to create an environment that is free from sexual harassment."

- BERS did not indicate the training provider or demonstrate that topics discussed in its 2018 *Basic EEO/Sexual Harassment Training* included discrimination complaint and investigation procedures. In addition, BERS did not demonstrate implementation of its training plan to ensure that all employees received training on the prevention of sexual harassment as well as discrimination complaint procedures. **Corrective Action Required.**

NOTE: Subsequent to the period in review, a *FY20 Diversity and EEO Training Summary* from DCAS indicated that, between July 2019 and March 2020, 110 employees (approximately 99% of the workforce) completed DCAS' *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* training.

III. **Complaint and Investigation Procedures**

Summary of Complaint Activity: The agency reported 1 internal and 0 external complaints were filed during the period in review.

Determination: The agency is in partial-compliance with the standards for this subject area.

4. Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
- ✓ The *Complaint Procedures* section of *Executive Director's Regulation A-1* stated, "[c]omplainants should use the complaint form attached to the regulation to file a complaint (see Attachment No. 1)." BERS's sole complaint file contained an activity log in which the first entry captured facts (including pertinent dates) that identified the respondent and provided the essence of the circumstances that gave rise to the complaint.

NOTE: While pertinent information was captured in the activity log of the sole complaint file, the EEPC recommends that the EEO Office ensure a Complaint Intake Form is completed, preferably by the Complainant, as directed in BERS's *Executive Director's Regulation A-1*, although this may also be done by an EEO professional during intake.

5. Provide the option to file a complaint anonymously.

- ✓ BERS reported it received no anonymous complaints during the period in review therefore, its policies and procedures were analyzed to determine compliance with this standard. BERS's *Complaint Procedures* contained an *Anonymous Complaints* sub-section that stated, "[a] complainant may file an anonymous complaint with EEO alleging that a particular practice or policy is discriminatory. EEO will review such complaints in order to determine how they should be processed in light of the information provided by the anonymous complainant."

6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

- ✓ BERS sole complaint file contained two typed notices that stated, "I have scheduled a meeting for you in the [meeting location, date, and time]. The purpose of the meeting is to discuss concerns about your behavior. Because this conference may lead to disciplinary action, you may bring a union representative." Each notice contained a different date and time to meet at the specified location.
- BERS did not demonstrate that it served the respondent written notice of the complaint that included the respondent's right to respond to the allegations. **Corrective Action Required.**

NOTE: BERS did not demonstrate that its *Complaint Procedures* required that documentation be maintained in the complaint file regarding service of notice on the respondent that included the respondent's right to respond to the allegations and right to be accompanied by a representative of their choice. **See §I.2 for associated Corrective Action.**

Corrective Action #2: Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

NOTE: BERS's sole complaint during the period in review was not terminated, withdrawn, or resolved by agreement. Therefore, its policies and procedures were analyzed to determine compliance with this standard. BERS did not demonstrate that its *Complaint Procedures* required that written confirmation be issued or maintained when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office. **See §I.2 for associated Corrective Action.**

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

- ✓ Documents in BERS's sole complaint file indicated that interviews were conducted and notes were taken of words spoken and facts provided.

NOTE: BERS did not demonstrate that its *Complaint Procedures* required that thorough notes be taken of words spoken and facts provided during each interview and included in the complaint file. **See §1.2 for associated Corrective Action.**

9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

- BERS did not demonstrate that the investigation of its sole complaint immediately commenced due to allegations sufficiently warranting an investigation, or that a conclusive report was issued within 90 days of the date the complaint was filed as outlined in the entity's *Complaint Procedures*. **Corrective Action Required.**

Corrective Action #3: Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

- BERS's sole complaint file contained a typed outcome letter addressed to the respondent which indicated that the complaint investigation lasted more than 90 days. BERS did not specify the reason for the delay or project a time frame for completion of the report in the complaint file. BERS's sole complaint file also did not demonstrate that the complainant and respondent were notified of the delay after 90 days had passed. **Corrective Action Required.**

NOTE: BERS did not demonstrate that its *Complaint Procedures* required that in rare circumstances where a complaint investigation could not commence immediately, or where a conclusive report could not be issued within 90 days, that the reason for the delay and projected time frame for completion of the report be specified in the complaint file, and the complainant and respondent be notified of the delay. **See §1.2 for associated Corrective Action.**

Corrective Action #4: In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint

file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

- BERS did not demonstrate that it generated at the end of its sole complaint investigation, a conclusive confidential report that included a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review. **Corrective Action Required.**

NOTE: BERS did not demonstrate that its *Complaint Procedures* required that a conclusive report be generated at the end of each complaint investigation that included a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review. **See §1.2 for associated Corrective Action.**

Corrective Action #5: Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

- ✓ BERS reported that its complaint files were maintained and secured both physically and electronically in the principal EEO Professional's office. Physical files were stored in a locked file cabinet and electronic files were stored in password protected folder on the principal EEO Professional's computer. Both the physical and electronic files were available upon request to the General Counsel and agency head.

13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

- ✓ BERS's *Complaint Procedures* mandated that, "[f]ollowing the investigation, EEO 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.”

- BERS did not demonstrate that, for its sole complaint file during the period in review, its agency head (or an approved direct report other than the General Counsel) reviewed the principal investigator’s conclusive report; issued a written/electronic determination adopting, rejecting or modifying the recommended action; and signed each determination, via writing or electronically, to indicate it had been reviewed and adopted as required by the entity’s *Complaint Procedures*. **Corrective Action Required.**

NOTE: BERS did not demonstrate that its *Complaint Procedures* required that the agency head (or an approved direct report other than the General Counsel) sign each determination of the conclusive report, via writing or electronically, to indicate it had been reviewed and adopted. **See §I.2 for associated Corrective Action.**

Corrective Action #6: Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator’s conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency’s complaint procedure.

- ✓ BERS’s sole complaint file contained a typed letter addressed to the respondent that outlined the outcome of the complaint investigation. The respondent signed and dated the letter under the statement, “*I have received a copy of this letter and I am aware that the original will be placed in my file.*” In addition, BERS’s *Complaint Procedures* stated that, “[t]he 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.”
- BERS did not demonstrate that the complainant of its sole complaint was informed of the conclusion and outcome of the complaint investigation in writing as required by the entity’s *Complaint Procedures*. **Corrective Action Required.**

Corrective Action #7: Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency’s complaint procedure.

15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

- ✓ BERS's sole complaint file contained a typed letter addressed to the respondent that outlined the outcome of the complaint investigation.
- BERS did not demonstrate that its sole complaint file contained a written determination of corrective action(s) taken as a result of the outcome of the complaint investigation. **Corrective Action Required.**

NOTE: BERS did not demonstrate that its *Complaint Procedures* required that each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result. **See §1.2 for associated Corrective Action.**

Corrective Action #8: Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

NOTE: BERS reported that its sole complaint filed during the period in review was an internal complaint that was not transferred due to the filing of an external complaint, therefore, BERS policies and procedures were used to determine compliance with this standard. BERS did not demonstrate that its *Complaint Procedures* required that the complainant and respondent be notified in writing when the investigation by the EEO professional is transferred because of the filing of an external complaint. **See §1.2 for associated Corrective Action.**

17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

- ✓ BERS reported that it utilized DCAS' *Citywide Equal Employment Database System (CEEDS)* complaint tracking and monitoring system. A copy of *CEEDS' EEO Database System User's Guide* indicated that the CEEDS complaint tracking and monitoring system permitted the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

- BERS reported, but did not demonstrate, that it utilized a complaint tracking and monitoring system that permitted the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, and the aggrieved individuals. **Corrective Action Required.**

Corrective Action #9: Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

- ✓ Notes in BERS's sole complaint file indicated that "*Legal*" (presumably the entity's General Counsel) was consulted twice during the complaint investigation, therefore demonstrating that the General Counsel was available to consult with the principal EEO Professional on internal complaint investigations. In addition, the *Alternative Complaint Procedures* section of the *Executive Director's Regulation A-1*, stated "*where a complaint is filed with an external agency, EEO will not conduct an internal investigation, and will transfer the matter to the General Counsel of BERS.*"
- BERS did not demonstrate that, during the period in review, the General Counsel assisted the agency head in identifying and determining appropriate responses to sexual harassment; and worked with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment. **Corrective Action Required.**

NOTE: BERS reported that it received no external complaints during the period in review therefore, analysis of the General Counsel's responsibility to inform the principal EEO Professional when external complaints or litigation involving sexual harassment was brought against the agency and responsibility for the investigation of, and response to, external sexual harassment complaints was impractical.

Corrective Action #10: Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint

investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

IV. Annual Review of Practices, Policies and Programs

Determination: The agency is in non-compliance with the standards for this subject area.

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

- BERS did not demonstrate that, during the period in review, it ensured that the principal EEO Professional (who also served as the agency's HR Director) and General Counsel reviewed the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies. **Corrective Action Required.**

NOTE: Subsequent to the period in review, BERS's submitted a January 2020 *Risk Assessment Report* conducted by an outside vendor, which "...[a]ssessed a wide range of risk areas that could potentially affect BERS, including reputation, operational, human resource, financial, emerging, fraud exposure, volume and complexity... [and outlined risk areas] that have a relatively high likelihood of occurrence and potentially high impact to BERS' business." The *Risk Assessment Report* indicated that discussions were held with department heads including Legal and Human Resources, and contained an *Appendix A: Key Risk Themes By Function* that listed the following risk factors in human resources: "[d]ocumented policies and procedures; Staffing, Retention and succession planning; Timekeeping; Organizational Culture; and Civil Service Compliance [sic]." The *Risk Assessment Report* did not indicate if the review identified whether there were any barriers to employment opportunities (including those that may be related to sexual harassment) and determine what, if any, actions were required to correct deficiencies.

Corrective Action #11: Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

V. Responsibility for Implementation - EEO Professionals

Determination: The agency is in partial-compliance with the standards for this subject area.

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

- ✓ BERS reported that its principal EEO Professional was appointed to the position in June 2018. Training logs from the DCAS' Office of Citywide Equity and Inclusion (OCEI) demonstrated that, in May 2019, the principal EEO Professional completed the second day of a two-day *Essential Training for New EEO Personnel*³. The agenda for the *Essential Training for New EEO Personnel* indicated that on that second day of training, the principal EEO Professional was trained in the following: *Accommodations Policy & Practice* (which included the topics *Disability; Religion; Pregnancy, childbirth or a related medical condition; Lactation; and Status as a victim of domestic violence, sex offense or stalking*); *Reporting Complaint & Accommodations Data to DCAS; EEO Policy and Program Development* (which included the topics *Annual Plans; Workforce Data & Underrepresentation; and Office of Citywide Recruitment*).
- BERS did not demonstrate that the principal EEO Professional was trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
Corrective Action Required.

Corrective Action #12: Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

- ✓ BERS reported that the principal EEO Professional was supported by a Deputy EEO Officer who also served as the entity's Deputy Director of HR. BERS reported that the Deputy EEO Officer assumed the position in April 2019.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

³ The two-day DCAS OCEI *Essential Training for New EEO Personnel* occurred on April 26, 2019 and May 3, 2019.

- ✓ BERS reported in its *Diversity and Equal Employment Opportunity Plan* of fiscal year 2019 that the entity consisted of 111 employees located in one office. BERS also reported that its EEO Office consisted of the principal EEO Professional and Deputy EEO Officer who served as the Director of Human Resources and Deputy Director of Human Resources, respectively. In addition, training logs from DCAS' OCEI demonstrated that in May 2019, BERS's Deputy EEO Officer completed *Essential Training for New EEO Personnel*. Agendas from the two-day training indicate that the Deputy EEO Officer was trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

- BERS did not demonstrate that, during the period in review, the principal EEO Professional worked cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment. **Corrective Action Required.**

Corrective Action #13: Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

- ✓ BERS's *Job Description Form* for its Director of Human Resources position contained a *Position Summary* that stated, "[a]dditional duties will include serving as [principal EEO Professional]. Performs related work." In addition, BERS stated in response to the EEPC's PIQs that, "[o]ur EEO policies are available for staff and public consumption on our website." BERS reported that its *Executive Director's Regulation A-1*, which contained the entity's anti-discrimination policy and complaint procedures, had been available on the entity's website for the duration of the period in review, and was capable of enlargement into a large print format. In addition, the entity's *BERS Office of Equal Employment Opportunity* was reported to have been posted to the entity's website during the period in review, and assigned the principal EEO Professional the responsibility to promptly investigate allegations of sexual harassment via the statement, "[t]he [principal EEO Professional] will screen and immediately conduct an investigation and provide a written response within 30 business days." The *BERS Office of Equal Employment Opportunity* also assigned the entire EEO Office the responsibility to ensure that employees and managers received sexual harassment training by stating that, "[i]n addition to providing basic training on the BERS Non-Discrimination Policy, [the] EEO Office provides tailored workshops conducted by the Department

of Citywide Administrative Services (DCAS) and such training for BERS employees on such topics as sexual harassment, the complaint process and diversity/sensitivity awareness in the workplace.” The Reporting section of Executive Director’s Regulation A-1 implied that the EEO Office would provide guidance to supervisory personnel by stating “[s]upervisors are required to immediately report instances of any oral or written complaints of discrimination or discriminatory harassment committed by employees to EEO.... Advice and assistance on how to proceed will be provided as needed.” The Public Notification of Anti-Discrimination Policy to the Executive Director’s Regulation A-1 further identified the principal EEO Professional and EEO Office as available to provide guidance on Executive Director’s Regulation A-1 and therefore issues related to sexual harassment⁴ by identifying the EEO Office as an “Internal Resource” and directing that “questions regarding compliance should be referred to: [the principal EEO Professional name, office location and phone number.]”

- BERS did not demonstrate that its principal EEO Professional was assigned the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures were distributed/posted at all agency locations. **Corrective Action Required.**

Corrective Action #14: Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

- BERS did not demonstrate that, during the period in review, the principal EEO Professional reported directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. **Corrective Action Required.**

NOTE: Subsequent to the period in review, BERS’s *BERS Organization Structure January 2020* organizational chart indicated that the principal EEO Professional was a direct report to the *Executive Office*, which consisted of the Executive Director (agency head) and Deputy Executive Director.

⁴ The Policy section of Executive Director’s Regulation A-1 prohibited sexual harassment and stated “[i]t is also the policy of BERS to maintain an environment free of harassment on any of the above-noted grounds, including sexual harassment[.]”

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

- BERS did not demonstrate that, during the period in review, it maintained documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impacted the administration and operation of programs, policies or procedures concerning sexual harassment. **Corrective Action Required.**

Corrective Action #15: Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

VI. Responsibility for Implementation – Supervisors/Managers

Determination: The agency is in partial-compliance with the standards for this subject area.

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

- ✓ BERS documented the expectation that managers and supervisors would be held accountable for enforcing the entity's sexual harassment prevention policies and complaint procedures via its *Executive Director's Regulation A-1*, which contained the entity's anti-discrimination policy and complaint procedures. *Executive Director's Regulation A-1* contained a *Reporting* section that stated, "[s]upervisors are required to immediately report instances of any oral or written complaints of discrimination or discriminatory harassment committed by employees to EEO...A supervisor's failure to report complaints or instances of discrimination to EEO may constitute a violation of this policy."
- BERS did not demonstrate that, during the period in review, it documented the implementation that managers and supervisors were held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. **Corrective Action Required.**

Corrective Action #16: Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

28. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- BERS New York City Board of Education Retirement System Managerial Performance Evaluation Form did not contain a rating for EEO which covered responsibilities and processes for assuring managers' ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner. **Corrective Action Required.**

Corrective Action #17: Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VII. Reporting Standard for Agency Head

Determination: The agency is required to comply with the standards for this subject area.

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

- ✓ BERS provided its *Diversity and Equal Employment Opportunity Plan* for fiscal years 2019 and 2020.
- BERS did not provide its *Diversity and Equal Employment Opportunity Plan* for fiscal year 2018. **Corrective Action Required.**

NOTE: Subsequent to the period in review, BERS submitted a quarterly report for the 3rd quarter of fiscal year 2020.

Corrective Action #18: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

30. Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

Final Action: Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and

informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

Summary of Corrective Actions:

The Board of Education Retirement System has 19 required corrective action(s) at this time. This includes the aforementioned final action.

Conclusion

Pursuant to Charter Chapter 36, the Board of Education Retirement System has the *option* to respond to this Preliminary Determination, but must respond to our Final Determination if corrective action is required. **Any response must be signed by the agency head and submitted to the EEPC's Executive Director.**

Optional Response to Preliminary Determination: If submitted, the Board of Education Retirement System's optional response to the EEPC's Executive Director should indicate, with attached documentation, what steps have been or will be taken to correct outstanding areas of non-compliance, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the Preliminary Determination.

(Optional Conference) If requested, at the Optional Conference the EEPC will discuss the immediate steps that should be taken to correct outstanding areas of non-compliance and address questions regarding the Board of Education Retirement System's implementation of the prescribed corrective action(s).

(No Response Option) If the Board of Education Retirement System does not respond to this Preliminary Determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this Preliminary Determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective action(s) based on verified information submitted as part of the response to the Preliminary Determination; identify remaining corrective action(s) that require further monitoring to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Charter Chapter 36, upon receipt, the Board of Education Retirement System must submit a response, signed by the agency head, to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance-monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Imani Bowen, EEO Program Analyst

Approved by,



Charise L. Terry
Executive Director

c: Michelle Pyram, principal EEO Professional, Director of Human Resources, BERS
William B. Peterson, Manager, Labor Relations Analysis and Audit, EEPC

Appendix – 1

Board of Education Retirement System

Executive Director's Regulation A-1

July 1, 2017



Regulation of the Executive Director

Category: **EMPLOYEES**

Number: **A-1**

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

Page: 1 of 4
Issued: 7/1/17

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, national origin, alienage or citizenship status, religion or creed, gender (including "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, caregiver status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, and unemployment status, and consumer credit history. 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 Equal Employment Opportunity ("EEO") Office investigations and are required to report if summoned to appear by EEO. Tampering with or impeding an EEO 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 Equal Employment Opportunity (EEO) Office within one business day and complete and file a written A-1 complaint report with the EEO 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 EEO. Supervisors can make the report by calling EEO, e-mailing EEO 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 EEO 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 EEO 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 EEO as soon as possible. **EEO 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 EEO office upon request. Upon receipt of a complaint, EEO will determine whether the complaint alleges a violation of this regulation and, if so, will assign the complaint to an EEO investigator. If EEO believes that irreparable harm will occur before the complaint can be fully investigated and resolved, EEO may recommend interim relief pending completion of the investigation of the complaint.
2. Following the investigation, EEO 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 EEO to determine if any disciplinary or corrective action is required.
4. EEO will ensure that any corrective action required by the decision is implemented.

C. Anonymous Complaints

A complainant may file an anonymous complaint with EEO alleging that a particular practice or policy is discriminatory. EEO 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 EEO, 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, EEO 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:
929-305-3800

Office of Equal Opportunity
N.Y.C. Board of Education Retirement System
65 Court Street – Room, 16th Floor
Brooklyn, NY 11201

Fax:
929-305-3739

Website address: www.nycbers.org





Board of Education Retirement System

Executive Director's Regulation **A-1**

Attachment No. 1
Page: 1 of 2

COMPLAINT OF ALLEGED DISCRIMINATION FORM

Complainant Information:

Please complete every appropriate item and submit it as soon as possible after the incident of alleged discrimination or harassment to:

EQUAL EMPLOYMENT OPPORTUNITY OFFICE
Complaint Unit
65 Court Street, 16th Floor
Brooklyn, NY 11201
Phone #: 929-305-3800
Fax#: 718-935-3739

- **A complaint must be filed within one year of the event which is the subject of the complaint.**
- This form should be used by individual(s) who are filing a complaint as well as individual(s) reporting a complaint on behalf of an employee.
- Please ***print clearly*** all requested information.
- Also attach additional pages and supporting documentation, if necessary.

Check () One: (Employee (Applicant for Employment (Reporter (Other

Your Name: _____ Your Title: _____

Home Address: _____ City: _____ State: _____ Zip: _____

Phone# Home: _____ Cell: _____ Work: _____

Department or Unit Head information:

Name of Head of Site: _____
Title: _____
Office/District: _____
Site Address: _____
Site Phone#: _____



Board of Education Retirement System

Executive Director's Regulation **A-1**

Attachment No. 1
Page: 2 of 2

Head of Site information

1. Check below why you believe you were discriminated against.

- | | |
|--|---|
| <input type="checkbox"/> Age | <input type="checkbox"/> Partnership Status |
| <input type="checkbox"/> Alienage/Citizenship Status | <input type="checkbox"/> Predisposing Genetic Characteristic |
| <input type="checkbox"/> Arrest/Conviction | <input type="checkbox"/> Race |
| <input type="checkbox"/> Color | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Creed | <input type="checkbox"/> Retaliation (for asserting a claim of discrimination) |
| <input type="checkbox"/> Disability | <input type="checkbox"/> Sexual Harassment |
| <input type="checkbox"/> Ethnicity/National Origin | <input type="checkbox"/> Sexual Orientation |
| <input type="checkbox"/> Gender/Sex | <input type="checkbox"/> Status as a Victim of Domestic Violence, Sexual Offenses or Stalking |
| <input type="checkbox"/> Marital Status | <input type="checkbox"/> Unemployment Status (for applicants only) |
| <input type="checkbox"/> Military Status | |

2. Name(s)/title(s) of person(s) you believe engaged in discrimination.

1. Name: _____	1. Title: _____	2. Name: _____	2. Title: _____
3. Name: _____	3. Title: _____	4. Name: _____	4. Title: _____

3. Where did it take place? On Premises Off Premises

4. Date(s) on which alleged act(s) of discrimination occurred.

Month: _____ Day _____ Year _____	Month: _____ Day _____ Year _____
Month: _____ Day _____ Year _____	Month: _____ Day _____ Year _____

5. Explain what happened (cite names and evidence, if any, and attach extra pages if needed).

6. What relief or corrective action are you seeking?

Signature: _____

Date: _____



Board of Education Retirement System

Executive Director's Regulation A-1

Attachment No. 3
Page: 1 of 1

PUBLIC NOTIFICATION OF ANTI-DISCRIMINATION POLICY

It is the policy of the Board of Education Retirement System of the City of New York to provide equal employment opportunities without regard to actual or perceived actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, caregiver status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, and unemployment status, and consumer credit history.

This policy is in accordance with Title VI and Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, Section 503 and Section 504 of the Rehabilitation Act of 1973, Fair Labor Standards Amendments of 1974, Immigration Reform and Control Act of 1986, The Americans with Disabilities Act of 1990, Civil Rights Act of 1991, New York State and City Human Rights Laws.

Executive Director's Regulation A-1 sets forth the procedures for employees, parents of students, students and others who do business with, or otherwise interact with BERS to file complaints of unlawful discrimination or retaliation based upon such complaints. Complaints may be filed by contacting the Equal Employment Opportunity (EEO) Office or by filing with one of the agencies identified below. A copy of Executive Director's Regulation A-1 may be obtained from EEO or at: www.nycbers.org.

<p>Internal Resources:</p> <p>Equal Employment Opportunity Office New York City Board of Education Retirement System 65 Court Street - 16th Floor Brooklyn, New York 11201 Tel: 929-305-3800 Fax: 718-935-4124 Website: www.nycbers.org</p> <p>Addition questions regarding compliance should be referred to: Michelle Pyram 65 Court Street – 16th Floor Brooklyn, NY 11201 Tel: 929-305-3854</p>	<p>External Resources:</p> <table border="1"> <tr> <td data-bbox="1003 619 1193 1039"> <p>U.S. Equal Employment Opportunity Commission New York District Office 33 Whitehall Street, 5th Floor New York, New York 10004 212-336-3620</p> </td> <td data-bbox="1003 195 1193 619"> <p>Office for Civil Rights New York Office U.S. Department of Education 32 Old Slip, 26th Floor New York, NY 10005-2500 646-428-3900</p> </td> </tr> <tr> <td data-bbox="1193 619 1383 1039"> <p>New York State Division of Human Rights 1 Fordham Plaza - 4th Floor Bronx, New York 10458 718-741-8400</p> </td> <td data-bbox="1193 195 1383 619"> <p>New York City Commission on Human Rights 40 Rector Street – 9th Floor New York, New York 10006 Complaints: (212) 306-7450 Main: (212) 306-7560 <u>Mailing Address</u> P.O. Box 2023 New York, New York 10272</p> </td> </tr> </table>	<p>U.S. Equal Employment Opportunity Commission New York District Office 33 Whitehall Street, 5th Floor New York, New York 10004 212-336-3620</p>	<p>Office for Civil Rights New York Office U.S. Department of Education 32 Old Slip, 26th Floor New York, NY 10005-2500 646-428-3900</p>	<p>New York State Division of Human Rights 1 Fordham Plaza - 4th Floor Bronx, New York 10458 718-741-8400</p>	<p>New York City Commission on Human Rights 40 Rector Street – 9th Floor New York, New York 10006 Complaints: (212) 306-7450 Main: (212) 306-7560 <u>Mailing Address</u> P.O. Box 2023 New York, New York 10272</p>
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Sasha Neha Ahuja
Chair

Angela Cabrera
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Arva R. Rice
Commissioners

Charise L. Terry
Executive Director

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Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676.2724 fax

BY EMAIL

August 6, 2020

Sanford Rich
Executive Director
Board of Education Retirement System
65 Court Street, 16th Floor
Brooklyn, NY 11201-4965

Audit Status:

Evaluation of Sexual Harassment Prevention and Response Practices for Audit
Period January 1, 2018 to December 31, 2019.

Determination: **FINAL**

Resolution #: 2020AP/241-521-(2020)

Dear Executive Director Rich:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you for the continued cooperation extended to our staff. This document serves as a follow-up evaluation and Final Determination to the following:

Preliminary Determination Issued on: July 21, 2020
No Response Received.

Purpose

Chapter 35, Sections 815(a)(15) and (19) of the New York City Charter (Charter) calls for agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women.

Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective EEO for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide

equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed. The attachment contains the EEPC's final determination regarding the audit, review, and evaluation of the Board of Education Retirement System's Sexual Harassment Prevention and Response Practices.

As the Board of Education Retirement System falls within the EEPC's purview under Charter Chapter 36, Section 831(a), the EEPC is authorized to review, evaluate, and monitor the coordination and implementation of its affirmative employment programs of EEO and related practices. As indicated in our Preliminary Determination, the EEPC has adopted uniform standards¹ to this end. The purpose of this Final Determination, as authorized by Charter Chapter 36, Section 832(c), is to determine the sufficiency of the Board of Education Retirement System's actions taken or planned thus far to correct areas of non-compliance identified in the EEPC's Preliminary Determination. Further, Chapter 36, Section 832(c) requires that: (1) the EEPC assign a compliance-monitoring period of up to six (6) months to monitor efforts taken to eliminate areas of non-compliance, if any; and (2) the agency respond in thirty (30) days and submit a report each month during this period on the progress of efforts taken to correct outstanding areas of non-compliance.

Next Steps

The assigned compliance-monitoring period is: September 1, 2020 to February 28, 2021. Correcting all outstanding areas of non-compliance without delay is highly encouraged and will serve to shorten this period.

If corrective actions remain: Corrective actions will be listed under the *Monitoring Required* section of the attached Final Determination. The EEPC requires that the agency head submit a signed response to this Final Determination. The signed response should indicate what steps the Board of Education Retirement System has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Board of Education Retirement System will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Board of Education Retirement System is required to submit documentation that supports the implementation of each corrective action via TeamCentral, the EEPC's Automated Compliance-Monitoring System. Instruction on how to access and navigate TeamCentral is attached.

Final Memorandum: Upon the Board of Education Retirement System's implementation of the final corrective action, if any, the EEPC requires that the submit a final memorandum, signed by the agency head, that recognizes the EEPC's audit and reiterates commitment to equal employment practices. **Upon receipt of this final memorandum, the EEPC will issue a *Determination of Compliance*.**

If no corrective actions remain: In lieu of a response to this Final Determination, the Board of Education Retirement System must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Board of Education Retirement System will be exempt from the abovementioned compliance-monitoring period.

¹ The EEPC's uniform standards for auditing municipal entities and minimum standards for auditing community boards (collectively "Standards") are founded upon, and consistent with, federal, state, and local laws and regulations, and policies and procedures, including, but not limited to, the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to be Utilized by City Agencies 2014*; New York City Human Rights Law (NYC Administrative Code 8); New York State Human Rights Law (New York Executive Law, Article 15); New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

Conclusion

This is the EEPc's Final Determination. Questions regarding next steps may be addressed to Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at jshaw@eepc.nyc.gov or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,


Charise L. Terry
Executive Director

c: Michelle Pyram, principal EEO Professional, Director of Human Resources, BERS

Enclosed: TeamCentral Agency Manual

FINAL DETERMINATION

A response indicating progress of the Board of Education Retirement System's efforts to correct outstanding areas of non-compliance, with supporting documentation, is due within 30 days.

The Equal Employment Practices Commission's findings and corrective actions required to remedy areas of non-compliance are based on the audit methodology, which included collection and analysis of the documents, records, and data provided; the EEPC's *Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*, the *EEPC Supervisor/Manager Survey*, the *Annual EEO Plans* and *Quarterly EEO Reports* of the audited entity; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the optional response² (if applicable) to the EEPC's Preliminary Determination, our Final Determination is as follows:

Monitoring Required

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance-monitoring period.

Corrective Action #1:

Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #2:

Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

² Excerpts are italicized.

Corrective Action #3:

Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #4:

In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #5:

Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #6:

Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #7:

Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #8:

Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #9:

Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #10:

Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #11:

Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.



Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #12:

Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #13:

Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #14:

Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #15:

Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

Agency Response:

No agency response received.



EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #16:

Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #17:

Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Corrective Action #18:

Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Agency Response:

No agency response received.

EEPC Response:

The EEPC will monitor this corrective action during the compliance-monitoring period.

Final Action: Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

The EEPC thanks you and your staff for your continued cooperation.



**RESOLUTION NO.
2020AP/241-521-(2020)
Board of Education Retirement System
Executive Director Sanford Rich
Sexual Harassment Prevention and Response Practices
DETERMINATION: FINAL**

S Y N O P S I S

Corrective Action(s):	Total: 18		
Period Audit Covered:	January 1, 2018 to December 31, 2019		
Preliminary Determination Issued:	July 21, 2020	No Response Received	
Final Determination Issued:	August 6, 2020	Response Due	September 5, 2020
Compliance-Monitoring:	Required	September 1, 2020 to February 28, 2021	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter “entities”) and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities’ practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC’s determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Board of Education Retirement System’s Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Board of Education Retirement System’s Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated July 21, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
2. Serve the respondent with a notice of the complaint that includes the respondent’s right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.
3. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
4. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.
5. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head’s Review.
6. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
7. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
8. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.
9. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.
10. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City’s policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to

consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

11. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
12. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
13. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.
14. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.
15. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
16. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
17. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
18. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Whereas, within a two-week deadline following the EEPC's Preliminary Determination, the entity did not submit a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on August 6, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from September 1, 2020 to February 28, 2021, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on August 6, 2020, the entity was required to issue a response to the EEPC's Final Determination; Now Therefore,

Be It Resolved, that pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the EEPC approves the issuance of this Final Determination to Executive Director Sanford Rich to assign compliance-monitoring.

Approved unanimously on August 27, 2020.

/s/Sasha Neha Ahuja
Sasha Neha Ahuja
Chair

/s/Angela Cabrera
Angela Cabrera
Commissioner

/s/Arva R. Rice
Arva R. Rice
Commissioner

/s/Elaine S. Reiss
Elaine S. Reiss, Esq.
Commissioner

On behalf all Commissioners in attendance,


Charise L Terry
Executive Director



**BOARD OF EDUCATION RETIREMENT SYSTEM
OF THE CITY OF NEW YORK**
65 COURT STREET - ROOM 1603
BROOKLYN, NEW YORK 11201- 4965

SANFORD R. RICH
EXECUTIVE DIRECTOR
DANIEL D. MILLER
DEPUTY EXECUTIVE DIRECTOR

929-305-3800
OUTSIDE NEW YORK STATE
1-800-843-5575

September 4, 2020

Jennifer Shaw, Esq.
Executive Agency Counsel/Director of Compliance
253 Broadway, Suite 602
New York, NY 10007

Dear Ms. Shaw:

Please find attached the (BERS) Board of Education Retirement System's, response to the EEPC Final Evaluation of Sexual Harassment Practices for Audit Period January 1, 2018 to December 31, 2019. We are working to comply with each corrective action outlined in the Final Determination.

Sincerely,

A handwritten signature in black ink, appearing to read "D Miller".

Daniel Miller
Deputy Executive Director, BERS

(BERS) Board of Education Retirement System Response to the EEPF Final Evaluation of Sexual Harassment Practices

September 4, 2020

Response to Corrective Action #1

Action Taken: An e-mail will be sent in September from Executive Director, Sandy Rich reiterating our agency Policy that conforms to city, state and federal laws against sexual harassment, for use by managers, supervisors, and legal, human resources and EEO professionals. We will include as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

Response to Corrective Action #2

Action Taken: We plan to update our existing Anti-discrimination Policy and Procedures for Filing Internal Complaints of Discrimination. Upon receiving the complaints, we will serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. We will also maintain in the complaint file documentation regarding the service of notice on the respondent.

Response to Corrective Action #3

Action Taken: This recommendation is consistent with our existing Anti-discrimination Policy and Procedures for Filing Internal Complaints of Discrimination currently posted on the agency website. When possible or to the extent to which we are able to conduct an expedient investigation, will ensure that a conclusive report is filed within 90 days of the complaint. We will continue to commence our investigations immediately when allegations raised sufficiently warrant an investigation.

Response to Corrective Action #4

Action Taken: We plan to update our existing Anti-discrimination Policy and Procedures for Filing Internal Complaints of Discrimination to reflect this change. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, we will specify in the complaint file the reason for the delay and project a time frame for completion of the report. We will also notify the complainant and respondent of the delay.

Response to Corrective Action #5

Action Taken: We will update our existing Anti-discrimination Policy and Procedures for Filing Internal Complaints of Discrimination to provide that a conclusive confidential report which includes a summary of the

allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Executive Director's review, be generated at the end of each complaint investigation.

Response to Corrective Action #6

Action Taken: We will update our existing Anti-discrimination Policy and Procedures for Filing Internal Complaints of Discrimination to provide that the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

Response to Corrective Action #7

Action Taken: When complaints arise, we will inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

Response to Corrective Action #8

Action Taken: When internal discrimination complaints arise, we will ensure that the complaint file contains a written determination of its outcome and corrective action(s) are taken as a result.

Response to Corrective Action #9

Action Taken: As per the recommendation made by the EEPCC, our agency will establish a log that will be utilized for complaint tracking and monitoring.

Response to Corrective Action #10

Action Taken: When complaints arise, our agency General Counsel will assist the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

Response to Corrective Action #11

Action Taken: We will continue to review our Annual EEO plan with our Agency Heads and the General Counsel team and submit the plan to DCAS and OCEI. We will review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

Response to Corrective Action #12

Action Taken: We have appointed Michelle Pyram as the principal EEO Professional and will comply with DCAS to ensure she and the deputy EEO professional, Tene Williams are trained regarding city, state, federal

EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

Response to Corrective Action #13

Action Taken: We have and will continue to work cooperatively and closely with the General Counsel team in the implementation of policies and procedures concerning EEO and sexual harassment.

Response to Corrective Action #14

Action Taken: The principal EEO Professional will continue to supervise the activities of supporting EEO professional(s) to ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

Response to Corrective Action #15

Action Taken: Using our share drives, we will maintain documentation regarding directives or decisions between the Executive Director or Deputy Executive Director (or General Counsel) and the principal EEO Officer that impacts the administration and operations of programs, policies or procedures concerning sexual harassment.

Response to Corrective Action #16

Action Taken: We will continue to work with DCAS to ensure sexual harassment training completion takes place annually for all BERS managers, staff and temporary employees and consultants to ensure accountabilities for enforcing the agency's sexual harassment prevention policies. We will also distribute our complaint procedures annually to staff.

Response to Corrective Action #17

Action Taken: We are currently working with a procured vendor to support the agency with the development of a formal 'employee feedback' process (not a performance evaluation process) that is focused on employee development. As per the EEPC recommendation, we will add an EEO rating for managers, to ensure responsibilities and processes are in place for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner.

Response to Corrective Action #18

Action Taken: We will add the EEPC on our Annual EEO Plan submission that is typically sent to DCAS and OCEI.



SANFORD R. RICH
EXECUTIVE DIRECTOR
DANIEL D. MILLER
DEPUTY EXECUTIVE DIRECTOR

BOARD OF EDUCATION RETIREMENT SYSTEM
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1-800-843-5575

MEMORANDUM

TO: All BERS' Employees

FROM: Sanford Rich, Executive Director 

SUBJECT: Audit: Review, Evaluation, and Monitoring of Sexual Harassment Prevention and Response Practices

DATE: April 2, 2021

The New York City Charter requires the Equal Employment Practices Commission (EEOC) to conduct an audit once every four years to ensure each City agency or municipal entity (collectively “agency”) complies with federal, state, and local laws and regulations, and policies and procedures that increase equal opportunity for employees and applicants.

The EEOC recently concluded an audit and evaluation of the Board of Education Retirement System’s practices and procedures for compliance with city, state, and federal equal employment opportunity laws and regulations, and identified enhancement by means of the following:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies — or an agency Policy that conforms to city, state and federal laws against sexual harassment — for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
2. Serve the respondent with a notice of the complaint that includes the respondent’s right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.
3. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
4. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

5. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.
6. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
7. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
8. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.
9. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.
10. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
11. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
12. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
13. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.
14. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio

recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

15. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

16. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

17. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

18. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Through successful completion of the EEPC's audit, evaluation, and monitoring processes and the aforementioned enhancements, I reaffirm the commitment to ensuring that the Board of Education Retirement System's employment practices encourage and maintain a workplace free from unlawful discrimination and sexual harassment, and that all employees are aware of their rights and obligations under the agency's equal employment opportunity policies.



Vacant
Chair

Angela Cabrera
Elaine S. Reiss, Esq.
Arva R. Rice
Commissioners

Jeanne M. Victor
Executive Director

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676. 2724 fax

BY EMAIL

April 22, 2021

Sanford Rich
Executive Director
Board of Education Retirement System
65 Court Street, 16th Floor
Brooklyn, New York, 11201

Re: Resolution #2020AP/248-521-(2021)C13
DETERMINATION: Compliance

Dear Executive Director Rich,

On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEPC's Board of Commissioners has approved the attached Determination.

Thank you, principal EEO Professional Michelle Pyram, and Deputy EEO Professional Tene Williams for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,

A handwritten signature in black ink, appearing to read "Elaine S. Reiss". The signature is fluid and cursive.

Elaine S. Reiss, Esq.
Commissioner

c: Michelle Pyram, principal EEO Professional, Director of
Human Resources, BERS
Tene Williams, Deputy principal EEO Professional, Deputy
Director of Human Resources, BERS



Monitoring of Sexual Harassment Prevention and Response Practices

RESOLUTION NO.

2020AP/248-521-(2021)C13

Board of Education Retirement System

Executive Director Sanford Rich

DETERMINATION: COMPLIANCE

SYNOPSIS

Corrective Action(s):	Total: 18		
Period Audit Covered:	January 1, 2018 to December 31, 2019		
Preliminary Determination Issued:	July 21, 2020	No Response Received	
Final Determination Issued:	August 6, 2020	Response Received	September 3, 2020
Compliance-Monitoring:	Required	September 1, 2020 to February 28, 2021 with extension	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Board of Education Retirement System's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Board of Education Retirement System's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated July 21, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies — or an agency Policy that conforms to city, state and federal laws against sexual harassment — for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
2. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.
3. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
4. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.
5. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.
6. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
7. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
8. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.
9. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.
10. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

11. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
12. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
13. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.
14. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.
15. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
16. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
17. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
18. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

Whereas, within a two-week deadline following the EEPC's Preliminary Determination, the entity did not submit a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on August 6, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination,

the EEPC assigned a monitoring period from September 1, 2020 to February 28, 2021, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on September 3, 2020, the entity issued a response to the EEPC's Final Determination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the Board of Education Retirement System was monitored until March 31, 2021; and

Whereas, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the Executive Director submitted a copy of a memorandum to staff dated March 31, 2021, which recognized the EEPC's audit and reiterated commitment to the Board of Education Retirement System's equal employment practices; Now Therefore,

Be It Resolved, that the Board of Education Retirement System has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

Be It Resolved, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to Executive Director Sanford Rich of the Board of Education Retirement System.

Approved unanimously on April 22, 2021.

/s/Angela Cabrera
Angela Cabrera
Commissioner/Mayoral Appointee

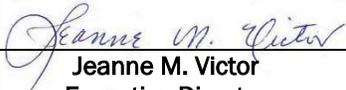
/s/Elaine S. Reiss
Elaine S. Reiss, Esq.
Commissioner/Mayoral Appointee

/s/Arva R. Rice
Arva R. Rice
Commissioner/City Council Appointee

Vacant
Commissioner/City Council Appointee

Vacant
Chair/Commissioner/Joint Appointee

On behalf of all Commissioners in attendance,


Jeanne M. Victor
Executive Director

This

Determination of Compliance

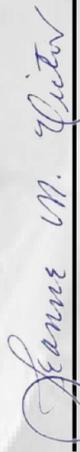
is hereby issued to

Board of Education Retirement System

for successful implementation of **18** of **18** required corrective action(s),
thereby achieving compliance with the Equal Employment Practices Commission's
Sexual Harassment Prevention and Response Practices
from January 1, 2018 to this date.

In care of Executive Director Sanford Rich,
principal EEO Professional Michelle Pyram and
Deputy EEO Professional Tene Williams

On this 22nd day of April in the year 2021,



Jeanne M. Victor, Executive Director