**Section 1540.370 Americans With Disabilities Act**

a) Purpose

1) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (ADA) (42 USC 12101 et seq.) and specifically Section 35.107 of the Title II regulations (28 CFR 35.107), requiring the adoption of a procedure to resolve grievances asserted by qualified individuals with disabilities. Interested parties may contact the ADA Coordinator to review the ADA or its regulations to understand the rights, privileges and remedies afforded by them.

2) In general, the ADA requires that each program, service and activity offered by the State Employees' Retirement System (System), when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.

3) It is the intention of the System to foster open communication with all individuals requesting readily accessible programs, services and activities. The System encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

b) Definitions

"ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"ADA Coordinator" means the person appointed by the Executive Secretary of the System to coordinate the System's efforts to comply with and carry out its responsibilities under Title II of the ADA, including any investigation and prompt equitable resolution of grievances filed by complainants. The ADA Coordinator may be contacted at State Employees' Retirement System, ADA Coordinator, 2101 S. Veterans Parkway, Springfield IL 62704. (See 28 CFR 35.107.)

"Complainant" means a qualified individual with a disability who files a Grievance Form provided by the System.

"Disability" shall have the same meaning as set forth in the ADA.

"Executive Secretary" means the Executive Secretary of the System or a duly authorized designee.

"Grievance" means any written complaint under the ADA by an individual with a disability who meets the eligibility requirements for participation in, or receipt of, the benefits of a program, activity or service offered by the System and who believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the System, or who has been subject to discrimination by the System.

"Grievance Form" means the form prescribed for the purpose of filing a grievance under this Part and includes information such as name, address, telephone number, and nature of the grievance, with specificity, including date of incident, time, place and witnesses if applicable.

"Major Life Activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning or working.

"Qualified Individual with a Disability" means an individual with a disability who, with or without reasonable modifications to rules, policies or practices, the removal of architectural, communication or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the System.

"Reasonable Modification" means modifications or adjustments to services, programs or activities that enable a qualified individual with a disability to participate in, or enjoy the benefits of the service, program or activity.

"System" means the State Employees' Retirement System of Illinois.

c) Procedures

1) The ADA Coordinator will endeavor to respond to and resolve grievances without the need to resort to the formal grievance procedure established by this Part. A person who wishes to avail himself or herself of the formal procedure, however, may do so only by filing a grievance within 180 calendar days after the alleged discrimination in the form and manner prescribed in this Section.

2) The ADA Coordinator shall provide a copy of the grievance procedure and the required complaint form to anyone who requests it or expresses a desire to file a formal grievance.

3) Grievances must be submitted in accordance with procedures established in this Section. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer, at the reviews described in subsections (d) and (e).

4) A complainant's failure to submit a Grievance Form, or to submit or appeal it to the next level of review within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the System's last response as given in the grievance procedure.

5) A complainant must exhaust the remedies provided under this Part as a prerequisite for filing any action before a court or other administrative body.

6) The System shall, upon being informed of an individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the Grievance Form.

d) ADA Coordinator Review

1) If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the date of the alleged discrimination, submit a grievance to the ADA Coordinator on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the ADA Coordinator.

2) Upon request, the System shall assist an individual in completing the Grievance Form.

3) The grievance shall contain the following information:

A) The complainant's name, address and telephone number.

B) Information as to the best time and means for contacting the complainant.

C) The program, activity or service that was denied the complainant, or in which alleged discrimination occurred.

D) The date and nature of the denial or alleged discrimination.

E) An explanation of why the complainant believes he or she is a qualified individual with a disability.

F) The signature or execution of or on behalf of the complainant.

4) The complainant shall attach copies of any documents received from or submitted to the System that pertain to the program, activity or service referred to in the grievance.

5) The ADA Coordinator, or his/her representative, shall investigate the grievance and, if the grievance is found to be valid, shall make reasonable efforts to resolve it. The ADA Coordinator shall provide a written response to the complainant and Executive Secretary within 15 business days after receipt of the Grievance Form.

e) Final Review

1) If the grievance is not resolved pursuant to this Section to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and ADA coordinator's response to the Executive Secretary for final review. The complainant shall submit these documents to the Executive Secretary, together with a short written statement explaining the reasons for dissatisfaction with the ADA Coordinator's written response, within 10 business days after service of the ADA Coordinator's response. Service is deemed complete five business days after mailing.

2) Within 15 business days after receipt of the complainant's request to the Executive Secretary for final review, the Executive Secretary shall appoint a three-member panel to evaluate the grievance. The Executive Secretary shall designate one panel member as chairman. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last panel member is appointed.

3) Complainant shall be afforded an opportunity to appear before the panel. Complainant shall have the right to appoint a representative to appear on his or her behalf. The panel shall review the complainant's Grievance Form and the ADA Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.

4) Upon agreement of at least two of the panel members, but not later than 15 business days after the review described in subsection (b), the panel shall make written recommendations to the Executive Secretary regarding the proper resolution of the grievance. All recommendations shall include reasons for the recommendation and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Executive Secretary in writing and shall sign his or her recommendation.

5) Within 15 business days after receipt of the panel's recommendations, the Executive Secretary shall approve, disapprove or modify the panel recommendations; shall render a decision on those recommendations in writing; shall state the basis for his or her decision; and shall cause a copy of the decision to be served on the parties. The Executive Secretary's decision shall be final. If the Executive Secretary disapproves or modifies the panel's recommendations, the Executive Secretary shall include written reasons for the disapproval or modification.

6) The Grievance Form, the ADA Coordinator's response, the complainant's statement of the reasons for dissatisfaction, the panel's recommendations, and the Executive Secretary's decision shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

f) Accessibility

The System shall ensure that all stages of the grievance procedure are readily accessible and usable by individuals with disabilities.

g) Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity, or cause undue hardship for the System. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other Complainants should rely.

(Source: Added at 34 Ill. Reg. 8313, effective June 10, 2010)