

## NYC Administration for Children's Services

May 25, 2001



Nicholas Scoppetta  
Commissioner

Division of  
Administration

John A. Benanti  
Deputy Commissioner

Mr. Frank Nicolazzi, Vice Chairman  
Equal Employment Practices Commission  
253 Broadway, Suite 301  
New York, New York 10007

RE: Preliminary Determination Pursuant to the Audit of the Administration for Children's Services (ACS) and its Compliance with the Complaint and Investigation Procedures of the City's Equal Employment Practices Opportunity Policy From July 1, 1997 to December 31, 1999

Dear Vice Chairman Nicolazzi:

This will serve as a response to your April 26, 2001 letter regarding the above captioned audit and findings of the Equal Employment Practices Commission.

We have reviewed the recommendations made by the Commission and have commented on each on the attached pages. We would also like to thank your staff for meeting with us on the draft preliminary audit but were disappointed that most issues and/or comments discussed at that meeting were not included in the preliminary draft we are responding to here.

Furthermore, it is quite disconcerting when statements are taken out of context as they do not reflect the true nature of 1) ACS' commitment to this process and sound equal employment opportunity practices in general, and; 2) the collaborative relationship ACS wishes to establish with its partners as it becomes a more "mature" independent agency. These too will be addressed on the attached pages.

ACS is quite proud of the accomplishments of our Office of Equal Employment Opportunity (OEEO). Considering that the audit covers a period when the Agency was in its infancy and that the OEEO was established in 1997, we are quite pleased with the performance of the Office. It has established itself as an independent body that ensures that the rights of all ACS staff are protected through thorough investigations and sound resolutions.

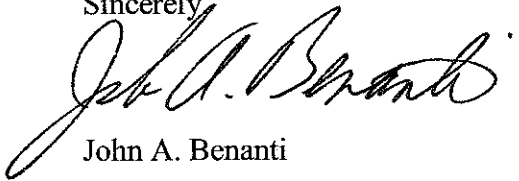


Your consideration of our concerns is both anticipated and appreciated.

Should you, or any member of the Commission, require further information, please do not hesitate to contact me at (212) 341-0990.

Thank you.

Sincerely

A handwritten signature in black ink, appearing to read "John A. Benanti". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

John A. Benanti

C: Nicholas Scoppetta  
Maryann Salley  
Jack Tennyson

Eileen Reilly, Mayor's Office of Operations

Abraham May, EEPC

**REQUIRED ACTION #1 OF 13**

The EEO Officer should periodically monitor agency bulletin boards to issue posting of EEO policy statements in ACS facilities throughout the five boroughs (Sec VII, EEOP).

**AGENCY ACTION:**

The Office of Equal Employment Opportunity (OEEEO) will continue to routinely distribute memoranda or other correspondence highlighting ACS Policy statements as they relate to EEO, ADA and Sexual Harassment, as well as any other related policies as it deems appropriate or as conditions demand.

Additionally, ACS will be introducing an Intranet that will bring these policy statements to the desktop computers of each of ACS' almost 8000 staff members. This will allow ACS to ensure that all information provided is the most current and is immediately available.

We do note however that this finding is not supported by the Commission's own data which states that 100% of ACS staff interviewed knew of the City's EEO and Sexual Harassment policies and that it was available to them. Furthermore, 93.33% reported that they were familiar with the City's EEO Policy, Standards and Procedures.

**REQUIRED ACTION #2 OF 13**

All Supervisors and Managers should be rated on EEO performance in the annual performance evaluation (Sec VII, EEOP).

**AGENCY ACTION:**

ACS agrees with this recommendation and as such has included EEO Performance as a rating criterion on its non-managerial performance evaluation form, which each employee receives on an "at-least" annual basis.

Additionally, the forms and processes utilized for rating managerial employees are those developed and promulgated by the Department of Citywide Administrative Services. The issues of EEO are dealt with in Section B-IV of the form.

**REQUIRED ACTION #3 OF 13**

To ensure that individuals of both sexes are available to receive and investigate discrimination complaints, ACS should aggressively seek approval to hire a male EEO investigator (Sec VII, EEO).

**AGENCY ACTION:**

As reported at our meeting on the draft preliminary plan, a male EEO investigator has been approved by the Vacancy Control Board and joined ACS's staff effective April 9, 2001.

#### **REQUIRED ACTION #4 OF 13**

ACS should investigate all internal discrimination complaints within the 90-day timeframe required by the EEOP's Discrimination Compliant Procedures Implementation Guidelines (April 2, 1996 amendment).

#### **AGENCY ACTION:**

The ACS OEEO fully supports and makes every effort to adhere to the 90-day timeframes. All internal complaints are immediately addressed and all avenues are explored to ensure compliance with this procedural requirement. However, circumstances (i.e. availability of witnesses, complexity of cases) do not always allow for an investigation to be thoroughly and accurately completed within this timeframe. The ACS OEEO has an excellent reputation for conducting thorough investigations to ensure that the rights of all parties are protected, and as such, if they are unable to complete the resolution in the required timeframe, the Delay of Notification form, as instructed by DCAS Amendment are utilized. These are fully documented in our quarterly reports and were available for review

**REQUIRED ACTION #5 OF 13**

The Agency should appoint an EEO Counselor for each borough (Sec VII, EEOP).

**AGENCY ACTION:**

The City's EEOP states in part that when dealing with the confidentiality of complaints, interaction with the OEEO should be on a "need-to-know-basis". The ACS OEEO has gone through great lengths to ensure confidentiality for individuals who either require counseling or are filing complaints. The OEEO is located in Manhattan and is centrally located at 2 Washington Street and as such is easily accessible from all boroughs. . A conscious decision was made by the Agency to locate in the OEEO Manhattan but away from the ACS Central Office located at 150 William Street. This allows individuals to minimize the risk of being seen by other staff members and protects their confidentiality.

Furthermore, ACS feels that establishing counselors in each borough detracts from the role of the central OEEO and does not allow it to protect the rights of affected individuals as described above.

**REQUIRED ACTION #6 OF 13**

ACS should ensure that all employees involved in interviewing receive structured interviewing training, either through internal training or training provided by DCAS (Sec VII, EEOP).

**AGENCY ACTION:**

OEEEO disseminates information received from DCAS to all ACS employees on the above captioned training. DCAS procedure requires that all interested staff contact DCAS directly to arrange training. In the future, ACS OEEEO will request copies of training rosters so they can track attendance.



**REQUIRED ACTION #7 OF 13**

ACS should petition the Office of Citywide Equal Employment Opportunity of DCAS to obtain the necessary assistance to conduct adverse impact studies (Sec VI, EEOP).

**AGENCY ACTION:**

The EEPO Officer will conduct adverse impact studies of employees in ACS protected groups once training is offered by the Citywide EEO Office of the Department of Citywide Administrative Services, and the EEO Officers are required to do so.

**REQUIRED ACTION #8 OF 13**

To ensure that employees receive career guidance from a trained professional, ACS should officially appoint a person familiar with civil service and provisional jobs to provide career counseling to employees who request it. In addition, ACS should inform all employees in writing of the identity, location and telephone number of the individual (Sec VII, EEOP).

**AGENCY ACTION:**

ACS has appointed Glenn Greenfield, Deputy Director of Personnel Administration for this task. We are in the process of notifying all staff of this appointment.

Of grave concern for us is the misquoting of our Assistant Commissioner for Personnel Services in the preliminary draft report. While he did state that he was "too busy", he also clarified that he was too busy to do this himself and that he would have to appoint someone to perform this task.

### **REQUIRED ACTION #9 OF 13**

The EEO Officer should be involved in developing recruitment strategies and selecting recruitment media, including newspapers and other publications (Sec VII, EEOP).

#### **AGENCY ACTION:**

- A) OEEEO will attend all civil service and provisional pools in an observatory role. It is important to note that these pools are conducted under the auspices of the Office of Personnel Services who has the responsibility of ensuring the integrity of the interview and civil service processes.
- B) OEEEO will not only receive all recruitment flyers but “face sheets” that indicate who applied for a position but when returned by the program areas indicates the status of the applicants request for a position. Please note that in most cases these face sheets are not returned by the program areas and as such this could pose a negative exposure.
- C) OEEEO will review all newspaper and periodical advertisements and makes suggestions for inclusions in specific publications. (This would address an observation made by the EEPC that we only advertised in major publications and not minority targeted ones). OEEEO would have to turn around this within a one-day timeframe to ensure deadlines are met with targeted advertising mediums.

**REQUIRED ACTION #10 OF 13**

To meet its obligations under the EEOP, ACS should hire another EEO investigator –in addition to the male investigator awaiting hiring approval (Sec VII, EEOP).

**AGENCY ACTION:**

As stated in Required Action #3 of 13, a male investigator was hired effective April 9, 2001. While we currently felt that he resources dedicated to the OEEEO are adequate at this time we will research the viability of adding an additional line to the unit should the need arise at a later date.

**REQUIRED ACTION #11 OF 13**

Supervisors/managers should hold documented meetings with their staff to emphasize their (supervisors') commitment to the Agency EEO policies and reaffirm the right of each employee to file a discrimination complaint with the EEO Office.

**AGENCY ACTION:**

OEEO emphasizes this recommendation on an on-going basis in training, phone contacts, etc. To further reinforce our commitment to this, we will send out Agency wide correspondence to all supervisors and managers reinforcing these obligatory responsibilities.

**REQUIRED ACTION #12 OF 13**

To meet its obligations under the EEOP, ACS should develop an internal method which allows its EEO Officer easy and regular access to the race and sex data of its employees. (Sec III and VI, EEOP).

**AGENCY ACTION:**

The EEO Officer has been given access to the Payroll Management System (PMS) from her desktop and has been assigned an identification logon with security clearances of an EEO Officer. We are working with the Office of Payroll Administration to ensure that the EEO Officer is trained in utilizing PMS to obtain the needed data.

**REQUIRED ACTION #13 OF 13**

All employees should receive written notification of the identity of the agency's EEO Officer (Sec VIII, EEOP)

**AGENCY ACTION:**

OEEEO routinely and regularly sends written notification to all employees of the identity of not only the EEO Officer but all Trainers/Investigators as well.

Additionally, as stated in Required Action #1 of 13, ACS will be introducing an Intranet that will bring these policy statements to the desktop computers of each of ACS' almost 8000 staff members. This will allow ACS to ensure that all information provided is the most current and is immediately available.

## SPECIAL PROBLEM/CONTINGENCY

1. As stated in our meeting to discuss the draft preliminary report, ACS provided data, including job title codes to DCAS several times, and usually within 24 hours the request was made by DCAS. We were not informed there was even an issue until December 2000 and promptly responded to the Commission's request by again providing the data to DCAS, as well as responding directly to the Commission's letter. (Attached for review is our December 22, 2000 letter to Frank Nicolazzi). Please note further that DCAS provided the information to the EEPD on April 1, 2001 based upon the diskettes provided by ACS.

Furthermore, that while it is true that Deputy Commissioner Benanti stated at our April 12, 2001 meeting that we had cooperated fully, at no time did he ever state that he was unaware that DCAS required additional data. Furthermore, ACS strongly rebuts the intimation in the preliminary draft that it willfully violated section 831b of the New York City charter.