



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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September 30, 2010

Patricia L. Gatling

Commissioner/Chair

New York City Commission on Human Rights

40 Rector Street

New York, NY 10006

Re: Final Determination Pursuant to the Audit of the City Commission on Human Rights (CCHR) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

Dear Commissioner Gatling:

Thank you for your September 20th response to the Equal Employment Practices Commission's August 6th Letter of Preliminary Determination pursuant to the Referenced audit.

After reviewing your response, our Final Determination is as follows:

Agree

We agree with your responses to the following EEPD recommendations, pending documentation that can be attached to your reply or provided during the compliance period:

Recommendation #1

All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer. (Sect. IV, EEO)

Recommendation #2

The agency head should sign off on all final determinations concerning EEO complaint resolutions to indicate that they have been reviewed and whether the recommendations, if any, have been approved and adopted. Such sign off may be in written or electronic form. (Sect. VB, EEOP and Sect 12b, DCPIG)

Recommendation #3

The EEO Officer/Counselor should serve the respondent with a notice of complaint (or another document that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice) along with a copy of the complaint. The EEO Officer should keep receipts regarding the service of notice on the respondent in the complaint file. (DCPIG, Sect. 12(b))

Recommendation #5

After review of the confidential written report by the agency head and recommendation(s), if any, have been approved and adopted, the EEO Officer shall inform all parties in writing of the outcome of the complaint. (Sect. III, EEOP and Sect. 12b, DCPIG)

Recommendation #9

After review of the confidential written report by the agency head and recommendation(s), if any, have been approved and adopted, the EEO Officer shall inform all parties in writing of the outcome of the complaint. (Sect. III, EEOP and Sect. 12b, DCPIG)

Recommendation #10

Because the EEOP requires the EEO Officer to report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), the agency should update its organizational chart to reflect this reporting relationship. (Sect. VB, EEOP)

Requires Clarification

For the following reasons, hereafter identified as EEPC Rationale, we request clarification of your response to the following recommendations, which can be addressed in your response or during the compliance period:

Recommendation #4

Because the DCPIG requires the investigator to report words spoken and facts provided as close to verbatim as possible, complaint files must contain thorough word processed notes, for each interview. (Sect. 12b, DCPIG and EEPC Position)

Your Response

The EEO Officer will ensure that all files contain the appropriate paperwork.

EEPC Rationale

Your response does not confirm that complaint files will contain thorough word processed notes when interviews are conducted. Please clarify.

Recommendation #7

To ensure that employees know the identity of the agency's Career Counselor, the personnel officer should re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor. This should be done at least once each year. (12/14/ 2006 *Addendum to EEOP Standards and Procedures to Be Utilized By City Agencies (2005)* and Sect. VF, EEOP)

Your Response

In July 2004, the Commission appointed Emile St. Cyr as the agency career counselor. As recently as last year the Commission sent a memo to all employees reminding them about who the career counselor was. In addition, Mr. St. Cyr routinely reminds employees about his role in the agency.

EEPC Rationale

Your response does not indicate whether or not your agency will re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor at least once a year. Please clarify.

Disagree

For the following reasons, hereafter identified as EEPC Rationale, we respectfully disagree with your responses to the following recommendations, which can be addressed in your response or during the compliance period:

Recommendation #6

Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group, the agency should conduct an adverse impact study for [recommended job groups]. The agency can use, and may modify, the Disparate Impact Analysis Program (an on-line Internet based application) recommended by DCAS/DCEEO by accessing: <http://www.hr-software.net/EmploymentStatistics/DisparateImpact.htm> for this purpose. To the extent that adverse impact is discovered, the agency should determine whether the criteria being utilized are job-related. If the criteria are not job-related, the agency should discontinue using those criteria. (Sect. IV, EEOP)

Your Response

The Commission on Human Rights embraces the New York City Equal Employment Opportunity Policy and has successfully hired a diverse and culturally mixed staff that is representative of the City we serve. The Commission does not believe it is appropriate to favor one group of individuals over others when making hiring decisions, in fact, such an action would be considered a violation of the NYC Human Rights Law.

EEPC Rationale

The Equal Employment Opportunity Policy requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group. Your response does not address the recommendation.

Recommendation #8

At least twice a year during normal staff meetings, managers and supervisors must emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position)

Your Response

The Managers of the Community Relations Bureau meet every two weeks. The meetings held at 40 Rector Street, cover all necessary operational matters of our community outreach. Mr. St. Cyr, our EEO Officer, Mr. Slaughter, EEO Counselor (Male) and Mr. Finkelstein, Disability Coordinator, are all members of that group. Mr. St. Cyr, on at least two or more occasions, in the past year, has spoken to Directors on EEO matters and reminded them to advise their staff of their right to file an EEO complaint. Mr. St. Cyr has answered all questions posted by Directors during those meetings and routinely checks on the posting of the Policy during his visits to the Commission's Borough Offices.

EEPC Rationale

It is the Commission's position that managers and supervisors should emphasize their commitment to the agency's EEO policies at least twice a year during normal staff meetings (with their subordinates) and affirm the right of each employee to file a discrimination complaint with the EEO office. Your response does not address the recommendation.


Conclusion

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance.

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPC Counsel Judith Garcia Quiñonez or her designee will contact your EEO Officer in seven days to ascertain your intentions.

In closing, we want to thank you and your staff for your cooperation during the audit process. We look forward to a mutually satisfactory compliance process.

Sincerely,


Abraham May, Jr.
Executive Director

C: Judith Garcia Quiñonez, Counsel
Emile St. Cyr, EEO Officer