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BY MAIL AND EMAIL

May 26, 2016

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Dr. Antonio Perez
President
Borough of Manhattan Community College
199 Chambers Street, Room S701
New York, NY 10007

Re: Preliminary Determination for Audit: Review, Evaluation, and Monitoring of the Borough of Manhattan Community College's Employment Practices and Procedures from January 1, 2014 to December 31, 2015.

Dear President Perez:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPCC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's Employment Practices and Procedures for the period covering January 1, 2014 to December 31, 2015.

The New York City Charter, Chapter 36, Section 831(d)(5), empowers this Commission to audit and evaluate city agencies' employment practices, programs, policies and procedures, and their efforts to ensure fair and effective equal employment opportunity for employees and applicants seeking employment with city agencies. Section 832.c provides that this Commission may, pursuant to an audit, make a preliminary determination that any plan, program or procedure utilized by any city agency does not provide equal employment opportunity and recommend all necessary and appropriate procedures, approaches, measures, standards and programs to be utilized by agencies in these efforts.

The Borough of Manhattan Community College, which may herein be referred to as "the agency," falls within the Commission's purview under Chapter 36, Section 831(a) of the New York City Charter, which delineates city agency as 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 agency’s Employment Practices and Procedures, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPAC Audits*¹ and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies’ EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. These standards are founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7); the Americans with Disabilities Act and its Accessibility Guidelines; and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters.

Since this Commission is empowered to review and recommend actions which each agency should consider including in its annual plan of measures and programs to provide equal employment opportunity (Annual EEO Plan), the audited agency should incorporate required corrective actions in its current EEO Program and prospective Annual EEO Plans.

Scope and Methodology

This Commission’s audit methodology includes collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency’s *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System* (CEEDS).

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency’s workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPAC requests that the agency submit similar statistics and analysis.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency’s employment practices. Where underutilization is revealed within an agency’s workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

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



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, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

To encourage response, the EEPC requests that the head or deputy of each agency send emails to employees and to supervisors/managers that provide links to our questionnaires.

Description of the Agency

Borough of Manhattan Community College (BMCC) in New York City is a diverse community, with talented, ambitious students, and a distinguished faculty. Located in the heart of downtown NYC, BMCC enables students to explore the artistic communities of Tribeca and SoHo, the dynamic Wall Street district and the center of New York City government at City Hall. Founded in 1964, BMCC focused on preparing students for careers in business, and providing a liberal arts education for their transfer to a 4-year college. BMCC continues to respond to the ever-changing needs of the business community, ensuring that graduates have skills to succeed in today's workforce. (<http://www2.cuny.edu/about/colleges-schools/bmcc/>)

At the end of the audit period, (12/31/15), the agency total workforce consisted of 1,303 employees; 568 pedagogical employees; and 735 non- pedagogical employees, the latter of which falls under the EEPC's jurisdiction. (See Appendix 1).

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 general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ The college President issued an EEO Policy memo to employees in 2014 and 2015. The EEO Policy memo reiterated "*commitment to overseeing BMCC's compliance with the CUNY Policies and Procedures on Equal Opportunity, Non-Discrimination, and on Sexual Misconduct;*" advised employees of the name and contact information of the principal EEO professional; and provided employees with an electronic link to the college's Equal Employment Policy in its entirety which included the complaint procedure and prohibition against discrimination.

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 EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency’s EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
- ✓ Prior to commencing employment, new hires were required to acknowledge receipt of and review the agency’s EEO Policy entitled, *The City University of New York (CUNY) Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment*, which was posted on its website. The CUNY EEO Policy included individual policies for *Equal Opportunity and Non-Discrimination; Discrimination, Sexual Harassment and Retaliation Complaints; Reasonable Accommodations; Responsibility for Compliance; and a policy Against Sexual Harassment*. The Policy also included the *Procedures for Implementing the City University of New York’s Policies on Equal Opportunity, Non-Discrimination and Against Sexual Harassment* – which provided instructions for *Reporting Discrimination, Harassment and/or Retaliation*, and included relevant laws concerning non-discrimination and equal opportunity, as well as an up-to-date list of protected classes under NYC and NYS Human Rights Laws.
 - The agency’s EEO Policy did not include current contact information for federal, state and local agencies that enforce laws against discrimination. **Corrective Action Required.**

Corrective Action #1: Include, or attach as addenda to the *City University of New York (CUNY) Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment* current contact information for the federal, state and local agencies that enforce laws against discrimination.

II. **EEO TRAINING FOR AGENCY:**

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

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.
- ✓ During the period in review, the agency established and implemented an EEO training plan for new and existing employees. Employees were notified and directed via email on March 25, 2014, to complete online EEO training. The agency reported that EEO training was conducted in-house by the principal EEO professional and by an external consultant. The agency developed a training plan that covered topics on EEO Basics and unlawful harassment; protected classes, complaints, investigations, retaliation, and discrimination. In 2014, the agency held EEO training sessions which included the following topics: *EEO Laws and*

Discrimination Prevention for Higher Education Supervisor Supplement; EEO Laws and Discrimination Prevention for Higher Ed - Completion Marker Course for in-house training; EEO Laws and Discrimination Prevention for Higher Ed - Custom Standard; and Equal Employment Opportunity.

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):

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

4. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
- ✓ The agency used an *Affirmative Action and Search Committee* to fill job vacancies and prior to conducting the search, the principal EEO professional “*examine[d] relevant data from the Affirmative Action Plan including underutilization, overall representation and hiring patterns to determine the level of outreach that is appropriate.*” In addition, the *Affirmative Action and Search Committee Guidelines* required the agency to advertise “*so that protected classes (....) and women have an opportunity to apply for jobs for which they are qualified,*” and to conduct recruitment “*by contacting organizations serving minority groups, women, person with disabilities, and veterans.*” The agency’s list of recruitment sources included online advertising websites such as: *The Hispanic Outlook in Higher Education; Diversity Issues in Higher Education; Women for Hire; Asians in Higher Education; and Blacks in Higher Education.*
5. The principal EEO Professional, HR Professional, and General Counsel, review the agency’s statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency’s employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.
- ✓ The agency reported that the principal EEO professional was responsible for collecting and interpreting statistical information (*Hires, Promotional, and Termination Analysis*), and conducting analysis of underrepresentation by job group, ethnicity, and gender.
 - Although, the agency provided documentation that the principal EEO professional met with the HR Professional and General Counsel in 2014 and 2015, it did not demonstrate that they reviewed the annual number of EEO complaints, or whether it identified barriers to equal opportunity within the agency and what, if any, corrective actions were required/taken in order to correct deficiencies. **Corrective Action Required.**

Corrective Action #2: Ensure that the principal EEO Professional, HR Professional and General Counsel, review the annual number of EEO complaints, and the agency’s employment policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to

correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

6. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.
- ✓ The agency reported that prior to conducting recruitment and in accordance with its *Affirmative Action and Search Committee Guidelines*, it established job-related criteria for job vacancies.
 - The agency did not demonstrate the process by which it established job-related criteria, or that it conducted an assessment to determine whether there was adverse impact upon any particular racial, ethnic, disability, or gender group. In addition, the agency reported underrepresentation of women in 3 job groups (*Skilled Trades, Mail Message/Service Worker; Information Technology*) and minorities in 5 job groups (*Allied Health (Asians and Hispanics), Computer Information Systems (Blacks), Health Education (Asians), Modern Language (Blacks), Science (Blacks), and Public Safety Sergeant (Asians)*). (See Attachment 2) **Corrective Action Required.**

Corrective Action #3: Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

7. If women, minorities, or other protected groups are underrepresented in titles where there is *discretion in hiring*, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
- ✓ The agency utilized a list of recruitment sources which included online advertising websites such as: *The Hispanic Outlook in Higher Education; Diversity Issues in Higher Education; Women for Hire; Asians in Higher Education; and Blacks in Higher Education.* (See III.4)
 - The agency reported underrepresentation of women in 3 job groups (*Skilled Trades, Mail Message/Service Worker; Information Technology*) and minorities in 5 job groups (*Allied Health (Asians & Hispanics), Computer Information Systems (Blacks), Health Education (Asians), Modern Language (Blacks), Science (Blacks), and Public Safety Sergeant (Asians)*), which may include *discretionary titles*. In addition, the agency did not demonstrate that it utilized female and minority oriented recruitment resources when positions in their underutilized job groups became available. **Corrective Action Required.**

Corrective Action #4: If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

8. If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with the CUNY Central Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
- ✓ The agency reported that prior to conducting recruitment and in accordance with its *Affirmative Action and Search Committee Guidelines*, it established job-related criteria for job vacancies, then utilized a list of recruitment sources which included online advertising website such as: *The Hispanic Outlook in Higher Education; Diversity Issues in Higher Education; Women for Hire; Asians in Higher Education; and Blacks in Higher Education*. (See III. 6 & III.7)
 - The agency did not demonstrate that it reviewed the competencies, skills and abilities required as presented in job vacancy notices and notices of examination for the positions which indicated underrepresentation [i.e. women in 3 job groups (*Skilled Trades, Mail Message/Service Worker; Information Technology*) and minorities in 5 job groups (*Allied Health (Asians and Hispanics), Computer Information Systems (Blacks), Health Education (Asians), Modern Language (Blacks), Science (Blacks), and Public Safety Sergeant (Asians)*), which may include *civil service titles*] to ensure standards were updated, job-related and required by business necessity. **Corrective Action Required.**

Corrective Action #5: If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with CUNY Central Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

9. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

- ✓ The agency reported that the interview process was conducted by a *Search Committee*, responsible for screening, interviewing and nominating candidates. (See III.4) The agency's *Affirmative Action Policy and Search Committee Guidelines* provided structured interview materials and information such as: *Certification of Applicants; Search Procedures (screening, interviews); the Checklist for Completing a Search, the Interview Documentation Form; and an Interview Guide: Appropriate and Inappropriate Questions for Pre-Employment Inquiry*. In addition, the principal EEO professional met with the *Search Committee* and provided guidelines and procedures to be used in the screening and interview process.
10. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
- ✓ During the period in review, the agency's Human Resources department provided employees with information regarding opportunities for promotion and transfer by notifying employees via email of open competitive and promotional examinations.
11. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.
- ✓ During the period in review, the agency advertised several job vacancies which included: *Admissions Specialist - CRM Software and Communications Specialist; Enrollment Registrar Manager; Student Life Specialist - Student Success Outreach and Programming; Director of Major Gifts & Planned Giving; and IT Computer Operations Manager Level III (Provisional) - Director of User Support Services*. Each job vacancy notice included the EEO tagline, "*CUNY encourages people with disabilities, minorities, veterans and women to apply. At CUNY, Italian Americans are also included among our protected groups. Applicants and employees will not be discriminated against on the basis of any legally protected category, including sexual orientation or gender identity. EEO/AA/Vet/Disability Employer.*"
12. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
- ✓ The agency reported that applications are received through CUNY's *Central Application Tracking System CUNYfirst*. CUNYfirst was used to generate logs which included the *position, applicant name, identification number, applicant type, and disposition*. In addition, the agency maintained a candidate *Interview Documentation* log for each position which included the *position title, applicants'/candidates' names, ethnicity, gender, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*.

- The agency did not demonstrate that the CUNYfirst system or the agency's applicant log captured the *applicants'/candidates' disability or veteran status*, or if an alternative process was used to collect this information. **Corrective Action Required.**

Corrective Action# 6: Use and maintain an applicant/candidate log or tracking system which, in addition to the above, also captures the *applicants'/candidates' disability or veteran status*.

IV. **CAREER COUNSELING:**

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

13. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
- ✓ The agency's Human Resources department was responsible for providing career counseling to employees upon request, and for ensuring employees had access to upcoming civil service examinations. The agency posted information on its website about the role of the Human Resources department which stated, "[t]he Office of Human Resources is dedicated to providing both training and development resources designed to enhance the knowledge, skills, and competencies of college personnel."
14. The Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.
- ✓ The Human Resources Department notified employees via email of performance evaluation standards, examinations, training opportunities and job postings; and ensured that new employees were provided a copy of the agency's EEO Policies and discrimination procedures via the new hire package. In addition, the Human Resources Professional and the principal EEO professional met annually, as demonstrated by their calendar meetings to discuss EEO matters.

NOTE: The agency reported that Civil Service testing, selection processes, and Section 55-a matters were addressed by the CUNY Central, Civil Service Unit.

V. **EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:**

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

15. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

- The agency did not demonstrate that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures were made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
Corrective Action Required.

Corrective Action #7: Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

16. Document reasonable accommodation requests and their outcomes.

- ✓ The agency reported that the Human Resources department documented reasonable accommodation requests and their outcomes using a log entitled “ADA Accommodations Request Log” which included information such as name, date submitted, granted, and date of action. The agency’s log included no reasonable accommodation requests during 2014; and three reasonable accommodation requests during 2015. The log also indicated the outcome of each request.

VI. **RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:**

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

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

- ✓ During the period in review, the agency had two Chief Diversity Officers who served consecutive terms. The first Chief Diversity Officer (the agency’s principal EEO professional), who served until August 2015, attended the following courses: *CUNY Faculty Diversity & Inclusion Conference 2015* (March 2015); *Council of Chief Diversity Officers Meeting* (April 2015); *504 ADA Coordinators Meetings* (April 2015); *Council of Chief Diversity Officers/ 504 ADA Coordinator Meeting* (April 2015); *Americans with Disabilities Association Coordinators* (April 2014); *CUNY ADA Best Practices* (April 2015); and *CDO AAP Salary Compensation Training* (July 2015). In August 2015, the College President sent a College-wide memo,

notifying employees of the appointment of a new interim Chief Diversity Officer, who served as the agency's principal EEO professional.

NOTE: Subsequent to the audit period, on February 17, 2016, the agency appointed a new Chief Diversity Officer, as the agency's principal EEO professional. The Chief Diversity Officer completed the *Diversity Management* training, Cornell University (May 2012).

18. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.
- ✓ The Chief Diversity Officers referenced above were the only members of the agency's EEO unit during the period in review. (See training VI. 17)
19. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- ✓ The agency's principal EEO professional reported directly to the College President (agency head). This reporting relationship was reflected in the agency's organizational chart.
20. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
- The agency did not maintain documentation of meetings and other communications between the agency head and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program. **Corrective Action Required.**

Corrective Action #8: Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:
Determination: The agency is in compliance with the standards for this subject area.

21. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.
- ✓ During the period in review, the agency established and implemented an annual managerial/non-managerial performance evaluation program. The agency's Human Resources department reminded managers of the deadline to complete performance evaluations. The agency maintained and provided documentation of completed performance evaluations conducted for managerial/non-managerial performance employees such as *Director of*

Research, IT Computer System Management, and Higher Education Assistant, and Civil Service managerial employees.

22. 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).
- ✓ During the period in review, the managerial performance evaluation forms contained a rating for EEO. The agency's managerial performance evaluations rated managers for the following: *"Inclusiveness – Diversity: Shows respect for people and their differences; promotes fairness and equity; engages the talents, experiences, and capabilities of others; fosters a sense of belonging; works to understand the perspectives of others; creates opportunities for access and success."*

VIII. REPORTING STANDARD FOR AGENCY HEAD:

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

23. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.
- The agency did not submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, or quarterly reports on efforts to implement the plan.

Corrective Action # 9: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports² (up to 30 days following each quarter) on efforts to implement the plan.

After implementation of the EEPC's corrective actions, if any:

1. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Conclusion

The agency has 9 required corrective action(s) at this time.

²Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.



Pursuant to Chapter 36 of the New York City Charter, your agency has the *option* to respond to this *preliminary determination*, but must respond to our Final Determination if corrective action is required.

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, 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) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s).

(No Response Option) If your agency 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 actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond 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,

A handwritten signature in black ink, appearing to read "Elona Shehu", written over a horizontal line.

Elona Shehu, EEO Program Analyst

Approved by,

A handwritten signature in blue ink, appearing to read "Charise L. Terry", written over a horizontal line.

Charise L. Terry, PHR
Executive Director

c: Odelia Levy, Esq., Chief Diversity Office and Special Advisor to the President

Appendix - 1

Statistical Profile of Agency Workforce

Community College –Borough of Manhattan

Attachment 13: Statistical Profile of Agency Workforce

Beginning and End of Audit Period

Agency Name: BOROUGH OF MANHATTAN COMMUNITY COLLEGE

# Employees	Beginning of Audit Period <u>1/1/2014</u>	End of Audit Period <u>12/31/2015</u>
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Male	612	624
Female	610	679

White	446	476
Black	362	382
Hispanic	252	260
Asian	144	165
Native American	1	3
Unknown	0	1
2 or More Races	17	16

Total # of Employees	1222	1303
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Appendix - 2

Impact Analysis Worksheet

Community College – Borough of Manhattan

IMPACT ANALYSIS WORKSHEETS

COLLEGE NAME: **BMCC**

FEMALES AND MINORITIES

HIRES ANALYSIS

BMCC

PART A

January 27, 2016

#	JOB AREAS/ CATEGORY	MINORITY HIRES						FEMALE HIRES						PERCENTAGE OF HIRES			
		NON MIN		MIN		TOTAL		MALE		FEMALE		TOTAL		% of non-min hires	% of min hires	% of male hires	% of female hires
		APPL	HIRES	APPL	HIRES	APPL	HIRES	APPL	HIRES	APPL	HIRES	APPL	HIRES				
	TOTAL	4830	97	10425	174	15255	271	7386	138	7857	118	15255	271	2%	2%	2%	2%
1	Exec./Adm./Mngrl.	1194	11	1815	13	3009	24	1658	14	1351	10	3009	24	0.9%	1.7%	1.9%	1.5%
2	Faculty	1150	56	1394	63	2544	119	1560	55	984	64	2544	119	4.9%	4.5%	3.5%	0.7%
3	Professional/Non-Fac.	2260	16	6717	44	8977	60	3697	31	5280	29	8977	60	0.7%	0.7%	0.8%	6.5%
4	Secretarial/Clerical	3	1	19	15	22	16	8	1	Error	Error	22	16	33.3%	78.9%	12.5%	Error
5	Techn./Paraprofessional	193	5	378	14	571	19	345	9	226	10	571	19	2.6%	3.7%	2.6%	4.4%
6	Skilled Trades	7	5	4	3	11	8	13	8	Error	Error	11	8	71.4%	75.0%	61.5%	Error
7	Service/Maintenance	23	3	98	22	121	25	105	20	16	5	121	25	13.0%	22.4%	19.0%	31.3%

IRA WORKSHEET FOR NON-MIN VS MIN % OF HIRES

January 27, 2016

#	JOB AREAS/ CATEGORY	RATE FOR		IRA	OVER ALL RATE	ONLY IF IRA UNDER 0.8				* IRA LESS THAN 0.8 AND DIF >=1 PERSON		FISHER TEST							
		UNFAV. GROUP				FAV. GROUP		EXPECT	ACTL	DIF	STD DEV	J	K	FISHER'S VALUE	NON-MIN APPLICANTS	NON-MIN HIRED	MIN APPLICANTS	MIN HIRED	FISHER TEST RESULT NOTE
		A	B			C	D												
1	Exec./Adm./Mngrl.	MINORITY	0.7%	NON-MIN	0.9%	0.78	0.8%	14	13	1	0.62	*							
2	Faculty	MINORITY	4.5%	NON-MIN	4.9%	0.93													
3	Professional/Non-Fac.	MINORITY	0.7%	NON-MIN	0.7%	0.93													
4	Secretarial/Clerical	NON-MIN	33.3%	MINORITY	78.9%														
5	Techn./Paraprofessional	NON-MIN	2.6%	MINORITY	3.7%														
6	Skilled Trades	NON-MIN	71.4%	MINORITY	75.0%														
7	Service/Maintenance	NON-MIN	13.0%	MINORITY	22.4%														
	TOTAL							14	13	1									

IRA WORKSHEET FOR MALE VS FEMALE % OF HIRES

January 27, 2016

#	JOB AREAS/ CATEGORY	RATE FOR		IRA	OVER ALL RATE	ONLY IF IRA UNDER 0.8				* IRA LESS THAN 0.8 AND DIF >=1 PERSON		FISHER'S TEST							
		UNFAV. GROUP				FAV. GROUP		EXPECT	ACTL	DIF	STD DEV	J	K	FISHER'S VALUE	male app	male hires	female app	female hires	FISHER TEST RESULT NOTE
		A	B			C	D												
1	Exec./Adm./Mngrl.	FEMALE	0.7%	MALE	0.8%	0.88													
2	Faculty	MALE	3.5%	FEMALE	6.5%														
3	Professional/Non-Fac.	FEMALE	0.5%	MALE	0.8%	0.66	0.7%	35	29	6	1.66	*							
4	Secretarial/Clerical	MALE	12.5%	FEMALE	Error														
5	Techn./Paraprofessional	MALE	2.6%	FEMALE	4.4%														
6	Skilled Trades	MALE	61.5%	FEMALE	Error														
7	Service/Maintenance	MALE	19.0%	FEMALE	31.3%														
	TOTAL:							35	29	6									

PROMOTION ANALYSIS

BMCC

PART B

January 27, 2016

#	JOB AREAS/ CATEGORY	MINORITY						FEMALE						PERCENTAGE OF PROMOTION			
		PROMOTION						PROMOTION						% of non-min PROMOTED	% of min promoted	% OF MEN promoted	% OF FEMALE promoted
		NON MIN		MIN		TOTAL		MALE		FEMALE		TOTAL					
		INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED				
	TOTAL	473	17	835	19	1308	36	629	14	679	22	1308	36	4%	2%	2%	3%
1	Exec./Adm./Mngrl.	43	0	70	5	113	5	50	0	63	5	113	5	0%	7%	0%	8%
2	Faculty	314	16	262	10	576	26	247	11	329	15	576	26	5%	4%	4%	5%
3	Professional/Non-Fac.	40	0	139	1	179	1	71	0	108	1	179	1	0%	1%	0%	1%
4	Secretarial/Clerical	11	0	100	0	111	0	18	0	93	0	111	0	0%	0%	0%	0%
5	Techn./Paraprofessional	16	1	89	3	105	4	66	3	39	1	105	4	6%	3%	5%	3%
6	Skilled Trades	34	0	22	0	56	0	56	0	0	0	56	0	0%	0%	0%	0%
7	Service/Maintenance	15	0	153	0	168	0	121	0	47	0	168	0	0%	0%	0%	0%
	TOTAL	473	17	835	19	1308	36	629	14	679	22	1308	36	4%	2%	2%	3%

IRA WORKSHEET FOR NON-MIN VS MIN % OF PROMOTION

January 27, 2016

#	JOB AREAS/ CATEGORY	RATE FOR		IRA	OVER ALL RATE	ONLY IF IRA UNDER 0.8				* IRA LESS THAN 0.8 AND DIF >=1 PERSON		FISHER TEST							
		UNFAV. GROUP				FAV. GROUP		EXPECT	ACTL	DIF	STD DEV	J	K	FISHER'S VALUE	NON-MIN INCUM	NON-MIN PRMT	MIN INCUM	MIN PRMT	FISHER TEST RESULT NOTE
		B	C			D	E												
1	Exec./Adm./Mngrl.	NON-MIN	0.00%	MINORITY	7.14%														
2	Faculty	MINORITY	3.82%	NON-MIN	5.10%	0.75	4.51%	11	10	1	0.74	*							
3	Professional/Non-Fac.	NON-MIN	0.00%	MINORITY	0.72%														
4	Secretarial/Clerical	N/A		N/A															
5	Techn./Paraprofessional	MINORITY	3.37%	NON-MIN	6.25%	0.54	3.81%	3	3	0	0.55								
6	Skilled Trades	N/A		N/A															
7	Service/Maintenance	N/A		N/A															
	TOTAL							14	13	1									

IRA WORKSHEET FOR MALE VS FEMALE % OF PROMOTION

January 27, 2016

#	JOB AREAS/ CATEGORY	RATE FOR		IRA	OVER ALL RATE	ONLY IF IRA UNDER 0.8				* IRA LESS THAN 0.8 AND DIF >=1 PERSON		FISHER TEST							
		UNFAV. GROUP				FAV. GROUP		EXPECT	ACTL	DIF	STD DEV	J	K	FISHER'S VALUE	male incum	male prmt	female incum	female prmt	FISHER TEST RESULT NOTE
		B	C			D	E												
1	Exec./Adm./Mngrl.	MALE	0.0%	FEMALE	7.9%														
2	Faculty	MALE	4.5%	FEMALE	4.6%														
3	Professional/Non-Fac.	MALE	0.0%	FEMALE	0.9%														
4	Secretarial/Clerical	N/A		N/A															
5	Techn./Paraprofessional	FEMALE	2.6%	MALE	4.5%	0.564	3.8%	1	1	0	0.51								
6	Skilled Trades	N/A		N/A															
7	Service/Maintenance	N/A		N/A															
	TOTAL							1	1	0									



Office of the President

Borough of Manhattan Community College
The City University of New York
www.bmcc.cuny.edu

199 Chambers Street
New York, NY 10007-1097
tel. 212-220-1230
fax 212-220-1244

SENT VIA E-MAIL AND US MAIL

Charise Terry
Executive Director
Equal Employment Practices Commission
253 Broadway, Suite 602
New York, NY 10007

June 8, 2016

Re: Response to Preliminary Determination Letter

Dear Executive Director Terry,

The Borough of Manhattan Community College (BMCC) received the May 26, 2016 Preliminary Determination letter from the Equal Employment Practices Commission (EEOC). Enclosed herein please find BMCC's detailed response to the nine corrective actions identified by the EEOC.

EEOC Corrective Action #1: *Include or attach as addenda to the City University of New York (CUNY) Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment current contact information for the federal, state and local agencies that enforce laws against discrimination.*

BMCC Response: As discussed during BMCC's conference call with EEOC representatives on April 28, 2016, CUNY Central is the only entity that can augment the Non-Discrimination Policy described above. On our call, BMCC proposed posting a list of the relevant external agencies that enforce laws against discrimination, along with their contact information, on our website. The EEOC indicated that this would be a satisfactory solution. A list of external agencies has been posted on the BMCC website at <http://www.bmcc.cuny.edu/aac/upload/external-resources.pdf>.

EEOC Corrective Action #2: *Ensure that the Principal EEO Professional, HR Professional and General Counsel, review the annual number of EEO complaints, and the agency's employment policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.*

BMCC Response: As discussed, the Chief Diversity Officer (CDO) and Vice President for Legal Affairs/Faculty & Staff Relations (who also serves as the General Counsel) meet on a regular basis to consult

regarding EEO matters, EEO investigations, and corrective actions. However, in order to address the corrective action identified above, BMCC has scheduled a dedicated meeting for the CDO and the Vice President to meet and review the annual number of EEO complaints and policies as described above. The meeting is scheduled for July 26, 2016 and a copy of the calendar entry is enclosed as *Attachment A*. The CDO and the Vice President will hold this meeting on an annual basis.

EEPC Corrective Action #3: *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. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.*

BMCC Response: As discussed during the April 28, 2016 phone call and in a May 2, 2016 e-mail, BMCC proactively engages in all the above-referenced best practices. This is accomplished in three stages. First, before a job opening can be posted, the CDO reviews the job description and related requirements to ensure that they are job related and are not discriminatory. Screenshots were provided in the May 2, 2016 email to demonstrate the review. As BMCC explained, the hiring process cannot move forward without the CDO's review. Second, the CDO meets with all search committees and "charges" them before applications and resumes are reviewed. A copy of BMCC's procedures, including the instructions given to the search committees, which were in effect during the audit period, are included in the below link. https://www.bmcc.cuny.edu/aac/upload/policy_packet.pdf. During this "charge" meeting, the CDO reviews underutilization statistics and determines whether there is any adverse impact that needs to be addressed. Third, as an Affirmative Action employer, and in compliance with Executive Order 11246, BMCC prepares an annual Affirmative Action Plan which, by definition, includes a review and analysis of all identified adverse impact and underutilization. A copy of BMCC's most recent Affirmative Action Plan is posted on the BMCC website at <http://www.bmcc.cuny.edu/aac/upload/2015AAP.pdf>.

EEPC Corrective Action #4: *If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority-or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested qualified candidates.*

BMCC Response: BMCC is strongly committed to utilizing diversity recruitment sources to attract candidates from all backgrounds. For example, during the audit period, competitive non-pedagogical openings were posted on Hispanic Outlook, Diverse Issues in Higher Education (formerly Black Issues in Higher Education, a national newsmagazine focusing on matters of access and opportunity for all in higher education), The Chronicle of Higher Education, Careerbuilder.com, and Higheredjobs.com. Furthermore, following consultation with the CDO, during the audit period, positions were also posted on H-net.org, Communitycollegejobs.com, Academicjobs.com, Jobs.womenforhire.com. The CDO also discusses additional diversity recruitment sources with subject matter experts within BMCC departments to reach the broadest array of potential applicants. In addition, BMCC's Digital Recruiter engages in targeted outreach by utilizing online tools, including social media recruitment opportunities on LinkedIn and Twitter, to establish BMCC as an employer of choice and to distribute BMCC opportunities to a wealth of diversity recruitment sources. For example, job opportunities are sent to diversity groups, including, but not limited to, Latino Professionals, The Black Ivy Alumni League, Woman 2 Woman Business, Recruit Military, and Diversity Recruiting. Furthermore, BMCC continues to engage in affirmative outreach efforts to recruit members of the military. BMCC personnel attended multiple job fairs for veterans, including Hiring Our Heroes. In addition to the above-described campus specific efforts, CUNY Central also posts all openings at www.cuny.edu and to a distribution network, which includes "InsideHigherEducation," the New York State Department of Labor sites for employment, veterans, and disability services, the Higher Education Recruitment Consortium job board, an additional network of diversity sites (see *Attachment B*), job aggregators (most notably Beyond.com), and Cuny-veterans.jobs. These recruitment efforts are designed to

further enhance BMCC's applicant pools of underrepresented groups. BMCC will continue to assess the results of these good faith outreach efforts and will continue to reshape its recruitment strategies.

EEPC Corrective Action #5: *If women, minorities, or other protected groups are underrepresented in civil service (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with CUNY Central Civil Service Commission if applicable). Then advertise in minority-or female-oriented publications, contact organizations serving women, minorities and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.*

BMCC Response: The above recommendation cannot be implemented by BMCC for a variety of reasons. Under the provisions of the New York State Constitution (Art. V, Sec. 6) all appointments and promotions in the public service must be made according to merit and fitness to be ascertained, as far as practical, by examination which, as far as practicable shall be competitive. In New York State and New York City, government jobs that are part of the competitive civil service require candidates for civil service positions to take and pass a civil service examination as part of the hiring process. At CUNY, the civil service exams are administered by CUNY Central. Civil Service examinations, whether administered by New York State, New York City, or the City University of New York, test individuals on the skills needed for specific job titles. No CUNY campus, including BMCC, may hire someone to permanently fill a competitive civil service position unless that individual is on the qualifying eligible list for the position, and only individuals who have passed the examination are placed on a CUNY Certified List of Eligibles for the title. Extensive advertising is done by CUNY when it is going to administer an examination for a civil service title and information on the examination is widely disseminated on campus and is posted at the Department of Citywide Administrative Services website. CUNY also posts the notices of examination on its job system and through that the job is automatically sent to a large number of diversity-related job boards on the internet. When an eligible list is established, the vacancy is not advertised, as only individuals on the eligible list may be considered for the vacancy. These individuals are contacted by CUNY Central to attend a hiring hall when positions in the particular title need to be filled. The candidates are called to a hiring hall based on the score they have achieved as the civil service laws requires candidates to be selected in rank order for a vacancy, with individuals with a higher score offered a position before individuals with a lower score may be considered.

EEPC Corrective Action #6: *Use and maintain an applicant/candidate log or tracking system which, in addition to the above, also captures the applicants'/candidates' disability or veteran status.*

BMCC Response: As explained in the May 2, 2016 email correspondence, as of January 2015, all applicants are provided with the opportunity to self-identify as having a disability or as being a veteran. This information is collected on the CUNYFirst system from applicants.

EEPC Corrective Action #7: *Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e. large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.*

BMCC Response: BMCC remains strongly committed to providing reasonable accommodations. Currently, CUNY is working to standardize all policies in accessible PDF formats which can be verbally read in Adobe by employees or applicants with disabilities. In the interim, BMCC reviews all requests for accommodations. For example, if the school received a request for a policy in large print, this would be accommodated on an as needed basis.

EEPC Corrective Action #8: *Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.*

BMCC Response: As discussed, the President has an open door policy and shares a suite with the CDO. During the course of the audit period, the President and the CDO met on a regular basis throughout the course of the audit period. BMCC does not have documentation regarding these meetings because they happened frequently and on an as needed basis. However, in light of the above-referenced corrective action, going forward, the CDO and the President will also schedule a monthly check-in meeting regarding EEO investigations and implementation. Documentation of these monthly meetings will be maintained.

EEPC Corrective Action #9: *Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.*

BMCC Response: As indicated in the EEPC's May 26, 2016 correspondence, the submission of quarterly reports is optional for non-Mayoral agencies and BMCC is a non-Mayoral entity. As discussed during BMCC's conference call with EEPC representatives on April 28, 2016, BMCC prepares an Annual Affirmative Action Plan. A copy of the most recent plan can be located on the BMCC website at <http://www.bmcc.cuny.edu/aac/upload/2015AAP.pdf> and subsequent plans will also be posted on the BMCC website.

We'd like to thank you and the entire EEPC team for taking the time to review our EEO program and materials. We look forward to working with the EEPC on the above-referenced matters. If any questions arise in the interim, please do not hesitate to contact Chief Diversity Officer Odella Levy at (212) 220-1236 or OLevy@bmcc.cuny.edu.

Sincerely,

A handwritten signature in black ink, appearing to read 'Antonio Pérez', with a long horizontal line extending to the left.

Antonio Pérez
President

cc: Robert Diaz, Esq.
Odella Levy, Esq.



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

Charise L. Terry, PHR
Executive Director

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BY MAIL AND EMAIL

July 8, 2016

Dr. Antonio Perez
President
Borough of Manhattan Community College
199 Chambers Street, Room S701
New York, NY 10007

RE: Audit Resolution #2016/466: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Borough of Manhattan Community College's Employment Practices and Procedures from January 1, 2014 through December 31, 2015.

Dear President Perez:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your June 8, 2016 response to our May 26, 2016 Preliminary Determination and for the cooperation extended to our staff during the course of this audit.

As indicated in our Preliminary Determination, this Commission has adopted uniform standards¹ to assess agencies' employment practices and programs for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. The attached Determination contains the Commission's findings and required corrective actions pertaining to the referenced review, evaluation and monitoring of your agency's employment practices and procedures.

Chapter 36, Section 832.c of the New York City Charter requires that: 1) the EEPC assign a 6-month compliance period to monitor your agency's efforts to eliminate remaining required corrective actions; and 2) the agency provide a written response within 30 days from the date of this letter indicating corrective action taken.

¹ Founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; New York City Human Rights Law (NYC Administrative Code, §§8-107.1(a) and 8-107.13(d)); New York State Civil Service Law §55-a; Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7) and the equal employment opportunity requirements of the New York City Charter.



The assigned compliance-monitoring period is: JULY 2016 TO DECEMBER 2016


If corrective actions remain: Your agency's response should indicate what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Documentation which supports the implementation of each corrective action shall be uploaded to TeamCentral, the EEPC's Automated Compliance-Monitoring System. Your agency will be monitored monthly until all corrective actions have been implemented. Instruction on how to access and navigate TeamCentral is attached. Upon your agency's completion of the final corrective action, this Commission requires that your agency upload a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. Upon receipt of the final memorandum, the EEPC will issue a *Determination of Compliance*.

If no corrective actions remain: Your agency is exempt from the aforementioned monitoring period. However, this Commission requires a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. This will be considered your agency's final action. Upon receipt of the memo, a *Determination of Compliance* will be issued.

If there are further questions regarding this Final Determination or the compliance-monitoring process, please have the Principal EEO Professional call Marie Giraud, Esq., Agency Attorney/Director of Compliance Monitoring at 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,


Charise L. Terry, PHR
Executive Director

c: Odelia Levy, Esq., Chief Diversity Officer and Special Advisor to the President

FINAL DETERMINATION

Agency response indicating corrective action taken with documentation is due within 30 days.

The Equal Employment Practices Commission's findings and required corrective actions are based on the audit methodology which includes collection and analysis of the documents, records and data the agency provided in response to the *EEPC Document and Information Request Form*; the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*; the *EEPC Supervisor/Manager Survey*; the agency's *Annual EEO Plans and Quarterly EEO Reports*; and workforce and utilization data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the agency's optional response (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

Include, or attach as addenda to the *City University of New York (CUNY) Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment* current contact information for the federal, state and local agencies that enforce laws against discrimination.

Agency Response: "[...] *CUNY Central is the only entity that can augment the Non-Discrimination Policy described above. [...] BMCC proposed posting a list of the relevant external agencies that enforce laws against discrimination, along with their contact information, on our website [...] [and] [a] list of external agencies has been posted on the BMCC website at <http://www.bmcc.cuny.edu/aac/upload/external-resources.pdf>.*" (Response, Pg. 1).

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#1**. Documentation which confirms that employees were notified that the current contact information for the federal, state and local agencies that enforce laws against discrimination has been posted on the agency's website will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #2

Ensure that the principal EEO Professional, HR Professional and General Counsel, review the annual number of EEO complaints, and the agency's employment policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

Agency Response: “[...] [T]he Chief Diversity Officer (CDO) and Vice President for Legal Affairs/Faculty & Staff Relations (who also serves as the General Counsel) meet on a regular basis to consult regarding EEO matters, EEO investigations, and corrective actions. However, in order to address the corrective action identified above, BMCC has scheduled a dedicated meeting for the CDO and the Vice President to meet and review the annual number of EEO complaints and policies as described above. The meeting is scheduled for July 26, 2016 and a copy of the calendar entry is enclosed as Attachment A. The CDO and the Vice President will hold this meeting on an annual basis” (Response, Pgs. 1 and 2).

EEPC Response: The EEPC recognizes the agency's commitment to implement corrective action #2. A review of the annual number of EEO complaints, and the agency's employment practices, policies and programs will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #3

Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job related, and adopt methods which diminish adverse impact.

Agency Response: “[...] BMCC proactively engages in all the above-referenced best practices. This is accomplished in three stages. First, before a job opening can be posted, the CDO reviews the job description and related requirements to ensure that they are job related and are not discriminatory. [...] As BMCC explained, the hiring process cannot move forward without the CDO's review. Second, the CDO meets with all search committees and "charges" them before applications and resumes are reviewed. A copy of BMCC's procedures, including the instructions given to the search committees, which were in effect during the audit period, are included in the below link. https://www.bmcc.cuny.edu/aac/upload/policy_packet.pdf. During this "charge" meeting, the CDO reviews underutilization statistics and determines whether there is any adverse impact that needs to be addressed. Third, as an Affirmative Action employer, and in compliance with Executive Order 11246, BMCC prepares an annual Affirmative Action Plan which, by definition, includes a review and analysis of all identified adverse impact and underutilization. A copy of BMCC's most recent Affirmative Action Plan is posted on the BMCC website at <http://www.bmcc.cuny.edu/aac/upload/2015AAP.pdf>.”

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action #3. An agency assessment of the manner in which candidates are selected for employment, to determine whether there is any adverse impact for the reported underrepresented (women in 3 job groups (Skilled Trades, Mail Message/Service Worker; Information Technology) and minorities in 5 job groups (Allied Health (Asians and Hispanics), Computer Information Systems (Blacks), Health Education (Asians), Modern Language (Blacks), Science (Blacks), and Public Safety Sergeant (Asians)), will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #4

If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

Agency Response: "BMCC is strongly committed to utilizing diversity recruitment sources to attract candidates from all backgrounds. For example, during the audit period, competitive non pedagogical openings were posted on Hispanic Outlook, Diverse Issues in Higher Education (formerly Black Issues in Higher Education, a national newsmagazine focusing on matters of access and opportunity for all in higher education), The Chronicle of Higher Education, Careerbuilder.com, and Higheredjobs.com. Furthermore, following consultation with the CDO, during the audit period, positions were also posted on H-net.org, Communitycollegejobs.com, Academicjobs.com, Jobs.womenforhire.com. The CDO also discusses additional diversity recruitment sources with subject matter experts within BMCC departments to reach the broadest array of potential applicants. In addition, BMCC's Digital Recruiter engages in targeted outreach by utilizing online tools, including social media recruitment opportunities on Linked In and Twitter, to establish BMCC as an employer of choice and to distribute BMCC opportunities to a wealth of diversity recruitment sources. For example, job opportunities are sent to diversity groups, including, but not limited to, Latino Professionals, The Black Ivy Alumni League, Woman 2 Woman Business, Recruit Military, and Diversity Recruiting. Furthermore, BMCC continues to engage in affirmative outreach efforts to recruit members of the military. BMCC personnel attended multiple job fairs for veterans, including Hiring Our Heroes. In addition to the above-described campus specific efforts, CUNY Central also posts all openings at www.cuny.edu and to a distribution network, which includes "InsideHigherEducation," the New York State Department of Labor sites for employment, veterans, and disability services, the Higher Education Recruitment Consortium job board, an additional network of diversity sites (see Attachment B), job aggregators (most notably Beyond.com), and Cuny-veterans.jobs. These recruitment efforts are designed to further enhance BMCC's applicant pools of underrepresented groups. BMCC will continue to assess the results of these good faith outreach efforts and will continue to reshape its recruitment strategies." (Response, Pgs. 2 and 3).

EEPC Response: The EEPC recognizes the agency's efforts to address corrective action #4. Recruitment efforts targeted to underrepresented groups will be required during the compliance-monitoring period. For a list of underrepresented groups see EEPC response #3. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #5

If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with CUNY Central Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or

open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

Agency Response: “[...] CUNY also posts the notices of examination on its job system and through that the job is automatically sent to a large number of diversity-related job boards on the internet. When an eligible list is established, the vacancy is not advertised, as only individuals on the eligible list may be considered for the vacancy. These individuals are contacted by CUNY Central to attend a hiring hall when positions in the particular title need to be filled. The candidates are called to a hiring hall based on the score they have achieved as the civil service laws requires candidates to be selected in rank order for a vacancy, with individuals with a higher score offered a position before individuals with a lower score may be considered.” (Response, Pg. 3).

EEPC Response: The EEPC recognizes the agency's efforts to address corrective action #5. Documentation which confirms that notices of examinations in underrepresented groups were sent to diversity related job boards will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #6

Use and maintain an applicant/candidate log or tracking system which, in addition to the above, also captures the *applicants'/candidates' disability or veteran status*.

Agency Response: “[...] [A]ll applicants are provided with the opportunity to self-identify as having a disability or as being a veteran. This information is collected on the CUNYFirst system from applicants.” (Response, Pg. 3).

EEPC Response: The EEPC recognizes the agency's commitment to implement corrective action #6. Documentation which verifies implementation will be reviewed during the compliance-monitoring period.

Corrective Action #7

Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

Agency Response: “BMCC remains strongly committed to providing reasonable accommodations. Currently, CUNY is working to standardize all policies in accessible PDF formats which can be verbally read in Adobe by employees or applicants with disabilities. In the interim, BMCC reviews all requests for accommodations. For example, if the school received a request for a policy in large print, this would be accommodated on an as needed basis.” (Response, Pg. 3).

EEPC Response: The EEPC recognizes the agency's commitment to implement corrective action #7. Documentation which verifies implementation will be reviewed during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Corrective Action #8

Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

Agency Response: “[...] [T]he President has an open door policy and shares a suite with the CDO. During the course of the audit period, the President and the CDO met on a regular basis throughout the course of the audit period. BMCC does not have documentation regarding these meetings because they happened frequently and on an as needed basis. However, in light of the above-referenced corrective action, going forward, the CDO and the President will also schedule a monthly check-in meeting regarding EEO investigations and implementation. Documentation of these monthly meetings will be maintained.” (Response, Pg. 4).

EEPC Response: The EEPC recognizes the agency's commitment to implement corrective action #8. Implementation of this corrective action will be monitored.

Corrective Action #9

Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

Agency Response: “[...] BMCC prepares an Annual Affirmative Action Plan. A copy of the most recent plan can be located on the BMCC <http://www.bmcc.cuny.edu/aac/upload/2015AAP.pdf> and subsequent plans will also be posted on the BMCC website.” (Response, Pg. 4).

EEPC Response: The EEPC recognizes the agency's commitment to implement corrective action #9. Prospective Plans should be submitted to the EEPC on an annual basis. The EEPC will provide further guidance at the initiation of the compliance monitoring period.

Thank you and your staff for your continued cooperation.

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2016/466: Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Borough of Manhattan Community College's Employment Practices and Procedures from January 1, 2014 through December 31, 2015.

Whereas, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPCC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit of the Borough of Manhattan Community College's (BMCC) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated May 26, 2016, setting forth findings and the following required corrective actions:

1. Include, or attach as addenda to the *City University of New York (CUNY) Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment* current contact information for the federal, state and local agencies that enforce laws against discrimination.
2. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the annual number of EEO complaints, and the agency's employment policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
3. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job related, and adopt methods which diminish adverse impact.
4. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate

in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

5. If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with CUNY Central Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. Use and maintain an applicant/candidate log or tracking system which, in addition to the above, also captures the *applicants'/candidates' disability or veteran status*.
7. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
8. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
9. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

Whereas, the agency submitted its response to the EEPC's Preliminary Determination letter, on June 8, 2016; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on July 8, 2016 and indicated that corrective action(s) nos., 1-9 require compliance monitoring; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC is required to monitor the agency for a period not to exceed six months, from July 2016 through December 2016, to determine whether it implemented remaining required corrective actions; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the agency is required to respond in 30 days and make monthly reports thereafter to the Commission on the progress of implementation of such corrective actions; and

Whereas, all of the EEP's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

Be It Resolved, that the Commission approves issuance of this Final Determination to Dr. Antonio Perez, President of the Borough of Manhattan Community College.

Approved unanimously on September 9, 2016.



Angela Cabrera
Commissioner



Arva Rice
Commissioner



Malini Cadambi Daniel
Commissioner

Absent

Elaine S. Reiss, Esq.
Commissioner



Office of the President

Borough of Manhattan Community College
The City University of New York
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New York, NY 10007-1097
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SENT VIA E-MAIL AND US MAIL

Charise Terry
Executive Director
Equal Employment Practices Commission
253 Broadway, Suite 602
New York, NY 10007

August 23, 2016

Re: Response to Final Determination Letter

Dear Executive Director Terry,

The Borough of Manhattan Community College (BMCC) received the July 8, 2016 Final Determination letter from the Equal Employment Practices Commission (EEOC). Enclosed herein please find BMCC's detailed response to the nine corrective actions identified by the EEOC. Supporting documentation is attached to this document instead of TeamCentral.¹

EEOC Corrective Action #1: *Include or attach as addenda to the City University of New York (CUNY) Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment current contact information for the federal, state and local agencies that enforce laws against discrimination.*

BMCC Response: In the July 8, 2016 letter, the EEOC recognized BMCC's efforts to resolve Corrective Action #1. As previously indicated, CUNY Central is the only entity that can augment the Non-Discrimination Policy described above. BMCC posted a list of the relevant external agencies that enforce laws against discrimination, along with their contact information, on the BMCC website (<http://www.bmcc.cuny.edu/aac/upload/external-resources.pdf>). In the July 8, 2016 letter, the EEOC requested that we provide documentation indicating that employees were notified about the posting of external agencies. At the end of this month, BMCC will be distributing the attached correspondence to all BMCC employees. The correspondence is enclosed as *Attachment A*.

EEOC Corrective Action #2: *Ensure that the Principal EEO Professional, HR Professional and General Counsel, review the annual number of EEO complaints, and the agency's employment policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g.*

¹ In an 8/12/2016 email, Elona Shehu advised BMCC to send the supporting documentation along with this letter while technical issues arising in connection with TeamCentral are being resolved.

underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #2. The Chief Diversity Officer (CDO) and Vice President for Legal Affairs/Faculty & Staff Relations (who also serves as the General Counsel) meet on a regular basis to consult regarding EEO matters, EEO investigations, and corrective actions. To address the corrective action identified above, BMCC held a dedicated meeting for the CDO and the Vice President on July 26, 2016 to review the annual number of EEO complaints and policies as described above. The CDO and the Vice President will hold this meeting on an annual basis. BMCC previously provided a copy of the calendar entry from this meeting. The EEPC also requested a copy of the agenda from this meeting, which is enclosed as *Attachment B*.

EEPC Corrective Action #3: *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. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.*

BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #3. BMCC reviewed the job groups identified by the EEPC in the July 8, 2016 letter. Please note that some of the job groups identified by the EEPC are pedagogical and therefore, per the guidance received from the EEPC on an 8/17/16 phone call, should be excluded. The following job groups are pedagogical: Physical Sciences/Science (job titles: Professor, Associate Professor, Assistant Professor), Foreign Language/Modern Language (job titles: Professor, Associate Professor, Assistant Professor), Health and Physical Education (job titles: Professor, Associate Professor, Assistant Professor), Math, Statistics and Computer Science/Computer Information Systems (job titles: Professor, Associate Professor, Assistant Professor), and Health Professions/Allied Health (job titles: Professor, Associate Professor, Assistant Professor). The remaining non-pedagogical job groups are: (1) Campus Public Safety Sergeant (Asians), (2) Skilled Trades/Crafts (Women), (3) Mail/Message Service Worker (Women), and (4) Computer Specialists (Women).²

BMCC will review our hiring practices for any openings that arise in the four identified job groups (Campus Public Safety Sergeant, Skilled Trades/Crafts, Mail/Message Service Worker, and Computer Specialists) during the compliance period and will review whether there is any identified adverse impact³ for these four job groups. Please note that we do not have any current job openings for these job groups. Furthermore, in order to have adverse impact, we would need to have identified vacancies for these job groups.

² Please note that titles in these job groups are classified civil service titles. Please see BMCC's response to Corrective Action #5 for additional information about classified civil service titles.

³ Adverse impact differs from underutilization. Underutilization is identified when women and/or minorities are not being employed at a rate expected based on their availability in the relevant labor pool. According to the Uniform Guidelines, adverse impact is defined as "a selection rate for any race, sex, or ethnic group which is less than four-fifths (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact."

As previously indicated, BMCC proactively engages in best practices by having the CDO review the job description and related requirements to ensure that they are job related and are not discriminatory (and the hiring process cannot move forward without the CDO's review), the CDO meets with all search committees and "charges" them before applications and resumes are reviewed (please see https://www.bmcc.cuny.edu/aac/upload/policy_packet.pdf), and in compliance with Executive Order 11246, BMCC prepares an annual Affirmative Action Plan which, by definition, includes a review and analysis of all identified adverse impact and underutilization. A copy of BMCC's most recent Affirmative Action Plan is posted on the BMCC website at <http://www.bmcc.cuny.edu/aac/upload/2015AAP.pdf>.

EEPC Corrective Action #4: *If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority-or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested qualified candidates.*

BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #4. BMCC will monitor the four identified job groups (Campus Public Safety Sergeant, Skilled Trades/Crafts, Mail/Message Service Worker, and Computer Specialists) during the compliance period. Although we do not have any current job openings for these job groups, if any openings arise for in these job groups for titles where there is discretion in hiring, BMCC will ensure that relevant job advertisements are sent to diversity recruitment sources, including Asian and female-oriented publications and websites. If no openings arise for these job groups, BMCC will develop an appropriate recruitment plan.

As indicated in our previous submission, BMCC is strongly committed to utilizing diversity recruitment sources to attract candidates from all backgrounds. For example, during the audit period, competitive non-pedagogical openings were posted on Hispanic Outlook, Diverse Issues in Higher Education (formerly Black Issues in Higher Education, a national newsmagazine focusing on matters of access and opportunity for all in higher education), The Chronicle of Higher Education, Careerbuilder.com, and Higheredjobs.com. Furthermore, following consultation with the CDO, during the audit period, positions were also posted on H-net.org, Communitycollegejobs.com, Academicjobs.com, Jobs.womenforhire.com. The CDO also discusses additional diversity recruitment sources with subject matter experts within BMCC departments to reach the broadest array of potential applicants. In addition, BMCC's Digital Recruiter engages in targeted outreach by utilizing online tools, including social media recruitment opportunities on LinkedIn and Twitter, to establish BMCC as an employer of choice and to distribute BMCC opportunities to a wealth of diversity recruitment sources. For example, job opportunities are sent to diversity groups, including, but not limited to, Latino Professionals, The Black Ivy Alumni League, Woman 2 Woman Business, Recruit Military, and Diversity Recruiting. Furthermore, BMCC continues to engage in affirmative outreach efforts to recruit members of the military. BMCC personnel attended multiple job fairs for veterans, including Hiring Our Heroes. In addition to the above-described campus specific efforts, CUNY Central also posts all openings at www.cuny.edu and to a distribution network, which includes "InsideHigherEducation," the New York State Department of Labor sites for employment, veterans, and disability services, the Higher Education Recruitment Consortium job board, an additional network of diversity sites, job aggregators (most notably Beyond.com), and Cuny-veterans.jobs. These recruitment efforts are designed to further

enhance BMCC's applicant pools of underrepresented groups. BMCC will continue to assess the results of these good faith outreach efforts and will continue to reshape its recruitment strategies.

EEPC Corrective Action #5: *If women, minorities, or other protected groups are underrepresented in civil service (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with CUNY Central Civil Service Commission if applicable). Then advertise in minority-or female-oriented publications, contact organizations serving women, minorities and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.*

BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #5. The above recommendation cannot be implemented by BMCC for a variety of reasons. Under the provisions of the New York State Constitution (Art. V, Sec. 6) all appointments and promotions in the public service must be made according to merit and fitness to be ascertained, as far as practical, by examination which, as far as practicable shall be competitive. In New York State and New York City, government jobs that are part of the competitive civil service require candidates for civil service positions to take and pass a civil service examination as part of the hiring process. At CUNY, the civil service exams are administered by CUNY Central. Civil Service examinations, whether administered by New York State, New York City, or the City University of New York, test individuals on the skills needed for specific job titles. No CUNY campus, including BMCC, may hire someone to permanently fill a competitive civil service position unless that individual is on the qualifying eligible list for the position, and only individuals who have passed the examination are placed on a CUNY Certified List of Eligibles for the title. Extensive advertising is done by CUNY when it is going to administer an examination for a civil service title and information on the examination is widely disseminated on campus and is posted at the Department of Citywide Administrative Services website. CUNY also posts the notices of examination on its job system and through that the job is automatically sent to a large number of diversity-related job boards on the internet. When an eligible list is established, the vacancy is not advertised, as only individuals on the eligible list may be considered for the vacancy. These individuals are contacted by CUNY Central to attend a hiring hall when positions in the particular title need to be filled. The candidates are called to a hiring hall based on the score they have achieved as the civil service laws requires candidates to be selected in rank order for a vacancy, with individuals with a higher score offered a position before individuals with a lower score may be considered.

EEPC Corrective Action #6: *Use and maintain an applicant/candidate log or tracking system which, in addition to the above, also captures the applicants'/candidates' disability or veteran status.*

BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #6. As previously explained, as of January 2015, all applicants are provided with the opportunity to self-identify as having a disability or as being a veteran. This information is collected on the CUNYFirst system from applicants. A screenshot indicating the type of information captured by CUNYFirst is enclosed as *Attachment C*.

EEPC Corrective Action #7: *Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in*

appropriate alternative formats (i.e. large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #7. BMCC remains strongly committed to providing reasonable accommodations. Currently, CUNY is working to standardize all policies in accessible PDF formats which can be verbally read in Adobe by employees or applicants with disabilities. In the interim, BMCC reviews all requests for accommodations. Any request for an accommodation would be forwarded to the CDO for review. This is implemented by taking the following steps: (1) the CDO would review the request and engage in the interactive process with the requestor, (2) if the accommodation can be provided directly by BMCC, for example providing a larger print version of a policy, the college will work with the requestor to provide the accommodation, (3) if the accommodation cannot be solely provided by BMCC, the college will contact CUNY Central for assistance, for example, locating a vendor or service that can provide a Braille format. Furthermore, please note that CUNY utilizes DirectEmployers to advertise our job listings (see www.cuny.jobs). DirectEmployers has features to enhance job-searching capabilities for individuals with disabilities, including zoom and speech capabilities. See <http://www.directemployers.org/2015/03/24/directemployers-and-sitecues-partner-to-provide-enhanced-site-accessibility-to-job-seekers-with-disabilities/> for further information.

EEPC Corrective Action #8: *Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.*

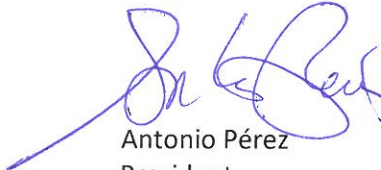
BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #8. As discussed, the President has an open door policy and shares a suite with the CDO. During the course of the audit period, the President and the CDO met on a regular basis throughout the course of the audit period. In light of the above-referenced corrective action, going forward, the CDO and the President have scheduled monthly check-in meeting regarding EEO investigations and implementation. Documentation of these monthly meetings will be maintained. As requested, agendas from these meetings will be forwarded to the EEPC during the compliance monitoring period.

EEPC Corrective Action #9: *Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.*

BMCC Response: In the July 8, 2016 letter, the EEPC recognized BMCC's efforts to resolve Corrective Action #9. As indicated in the EEPC's May 26, 2016 correspondence, the submission of quarterly reports is optional for non-Mayoral agencies and BMCC is a non-Mayoral entity. As discussed during BMCC's conference call with EEPC representatives on April 28, 2016, BMCC prepares an Annual Affirmative Action Plan. A copy of the most recent plan can be located on the BMCC website at <http://www.bmcc.cuny.edu/aac/upload/2015AAP.pdf> and subsequent plans will also be posted on the BMCC website.

As always, we would like to thank you and the entire EEPC team for taking the time to review BMCC's EEO program. We look forward to working with the EEPC during the compliance monitoring period. If any questions arise in the interim, please do not hesitate to contact Chief Diversity Officer Odelia Levy at (212) 220-1236 or OLevy@bmcc.cuny.edu.

Sincerely,



Antonio Pérez
President

cc: Robert Diaz, Esq.
Odelia Levy, Esq.



Office of the President

Borough of Manhattan Community College
The City University of New York
www.bmcc.cuny.edu

199 Chambers Street
New York, NY 10007-1097
tel. 212-220-1230
fax 212-220-1244

To: Campus Community
From: President Antonio Pérez 
Date: November 22, 2016
Re: BMCC's Commitment to Equal Employment Opportunity – Equal Employment Practices Commission Audit

The Borough of Manhattan Community College (BMCC) maintains a long-standing commitment to equal employment opportunity (EEO), diversity, and inclusion in all aspects of employment practices. Accordingly, I remain committed to BMCC's continued support for non-discrimination and EEO in the workplace. I believe that the College is enriched by the diversity of perspectives and by the people represented at BMCC. Our diversity is our strength.

The Equal Employment Practices Commission (EEOC) recently completed a scheduled audit of EEO practices at BMCC. The College worked closely with the EEOC to respond to questions, clarify existing practices, and examine opportunities to enhance our continued commitment to EEO. As a result of the audit, BMCC is proud to support several initiatives designed to further enhance the College's unwavering support for EEO. As indicated in an August 30, 2016 memorandum distributed to the campus community, information about external agencies that handle complaint of unlawful discrimination and harassment is posted on BMCC's website. The Chief Diversity Officer will continue to regularly meet and consult with my office and with the General Counsel on all relevant EEO matters and will document these discussions. Furthermore, BMCC will continue to promote the increased utilization of diversity recruitment sources to attract candidates from all backgrounds, including underrepresented groups. BMCC will work with Human Resources, CUNY Central, and other related offices to coordinate best practices with regard to diversity recruitment sources for all College searches. In addition, BMCC maintains a strong commitment to providing reasonable accommodations to our employees, applicants, and visitors. CUNY Central is currently working to standardize all policies in accessible PDF formats. In the meantime, any requests for accommodations due to a disability will be sent to the Chief Diversity Officer for review. Finally, BMCC will continue to provide all applicants with the opportunity to identify their disability and veteran status and will track that information within CUNYFirst.

If any individual has a complaint of unlawful discrimination or harassment, please contact Chief Diversity Officer Odelia Levy, Esq. at OLEvy@bmcc.cuny.edu or (212)220-1236. Ms. Levy's office is located at 199 Chambers Street, Suite S701k, New York, NY 10007.

I want to thank the entire BMCC community for your continued support of EEO, diversity, and inclusion in all employment practices at the College.

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2016/466C-16: Determination of **Compliance** (Monitoring Period Required) by the Borough of Manhattan Community College with the Equal Employment Practices Commission's required corrective actions pursuant to the Review, Evaluation and Monitoring of the agency's Employment Practices and Procedures from January 1, 2014 through December 31, 2015.

Whereas, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPCC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit and analysis of the Borough of Manhattan Community College's (BMCC) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated May 26, 2016, setting forth findings and the following required corrective actions:

1. Include, or attach as addenda to the *City University of New York (CUNY) Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment* current contact information for the federal, state and local agencies that enforce laws against discrimination.
2. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the annual number of EEO complaints, and the agency's employment policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
3. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job related, and adopt methods which diminish adverse impact.
4. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

5. If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with CUNY Central Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. Use and maintain an applicant/candidate log or tracking system which, in addition to the above, also captures the *applicants'/candidates' disability or veteran status*.
7. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
8. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
9. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

Whereas, the Borough of Manhattan Community College submitted its response to the EEPC's Preliminary Determination letter, on June 8, 2016; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on July 8, 2016, with corrective actions 1, 2, 3, 4, 5, 6, 7, 8, and 9, remaining; and

Whereas, the Borough of Manhattan Community College submitted its response to the EEPC's final determination letter, on August 23, 2016, and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC monitored the agency's implementation of the remaining corrective actions from July 2016 through December 2016, with no extension of the monitoring period; and

Whereas, at the EEPC's request pursuant to Section 815.a.(15) of the New York City Charter, the Borough of Manhattan Community College submitted a copy of the agency head's memorandum to staff dated November 22, 2016, which outlined the corrective actions implemented in response to the EEPC's audit and reiterated his commitment to the agency's EEO Program; and

Whereas, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

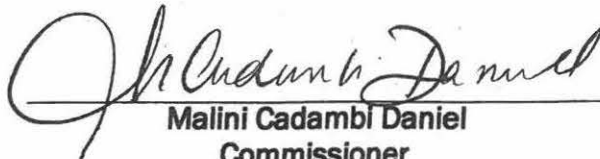
Be It Resolved, that the Borough of Manhattan Community College has implemented the required corrective actions deemed necessary to ensure compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the City Charter.

Be It Resolved, that the Commission will forward this Final Determination to Dr. Antonio Perez, President of the Borough of Manhattan Community College.

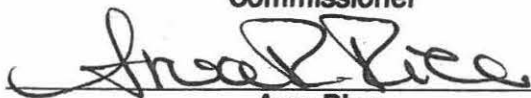
Approved unanimously on December 15, 2016.



Angela Cabrera
Commissioner



Malini Cadambi Daniel
Commissioner



Arva Rice
Commissioner

Abstain

Elaine S. Reiss, Esq.
Commissioner



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

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Deputy Director

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Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 615. 8931 fax

BY MAIL AND EMAIL

December 15, 2016

Dr. Antonio Perez
President
Borough of Manhattan Community College
199 Chambers Street, Room S701
New York, NY 10007

Re: Resolution #2016/466: Determination of Agency Compliance

Dear President Perez:

On behalf of the members of the Equal Employment Practices Commission (EEPC or Commission), I want to formally inform you that the Commission has issued the attached Determination of Compliance to the Borough of Manhattan Community College. This Commission has determined that the Borough of Manhattan Community College has implemented the required corrective actions deemed necessary by this Commission for ensuring a fair and effective affirmative employment program of equal opportunity as required by the equal employment opportunity standards of this Commission and Chapters 35 and 36 of the New York City Charter.

On behalf of this Commission, I want to thank you and Chief Diversity Officer and Special Advisor to the President Odelia Levy, Esq., for the cooperation extended to the EEPC during the compliance-monitoring period.

Sincerely,

A handwritten signature in black ink, appearing to read "Arva R. Rice". The signature is fluid and cursive.

Arva R. Rice
Commissioner

c: Odelia Levy, Esq., Chief Diversity Officer and Special Advisor to the President

EEPC

EQUAL EMPLOYMENT PRACTICES COMMISSION

This

Determination of Compliance

is issued to the

*Borough of Manhattan Community College - The City
University of New York*

*for successfully implementing 9 of 9 required corrective actions pursuant to the Equal Employment Practices Commission's
Employment Practice and Procedures Audit From January 1, 2014 to this date.*

On this 15th day of December in the year 2016,



Arya R. Rice, Commissioner



Charise L. Terry, PHR, Executive Director

*In care of President Dr. Antonio Perez
and Odella Levy, Esq., Chief Diversity Office and
Special Advisor to the President*