



EQUAL EMPLOYMENT PRACTICES COMMISSION

SUMMARY COMPLIANCE REPORT

Agency: New York City Fire Department

Agency Head: Nicholas Scoppetta, Commissioner

EEO Officer: Paulette Lundy

Audit: New York City Fire Department's Recruitment Program for Examination No. 7029 (February 27, 1999)

Date of Preliminary Findings Letter:	<i>May 25, 2000</i>
Date of Response Letter:	<i>September 14, 2000</i>
Compliance Initiated:	<i>May 2001</i>
Compliance Completed:	<i>October 2002</i>
Covering Months:	<i>April 2001 – October 2002</i>

Date: December 10, 2002

Pursuant to the findings and recommendations of the Equal Employment Practices Commission's (EEOC) Audit of the New York City Fire Department's (FDNY) Recruitment Program for Examination No. 7029 (February 27, 1999), EEOC initiated Audit Compliance with FDNY on May 1, 2001. The delay in initiating Audit Compliance was due to a series of letters after the Letter of Preliminary Determination was issued and a meeting with Fire Commissioner Von Essen. Audit Compliance was also suspended from October 18, 2001 to June 2002 due to the World Trade Center Disaster. FDNY's Final Compliance Report was submitted on October 29, 2002. Eleven of the seventeen required actions were completed. The following is a summary of the compliance reports.

FDNY has implemented the following corrective actions:

- 2. The Department should grant five transfer points to field personnel who work as recruiters for at least two years.**

The FDNY stated that uniformed personnel who volunteer to work off their line in recruitment are awarded points for their service. The FDNY submitted a list of fifteen Firefighters and Officers who worked on the 1999 recruitment campaign. Five of the field personnel on the list received points. Those who did not meet the criteria were not given points, but received consideration when they requested a transfer or an assignment.

4. **The Advisory Committee should consist of one representative from each of the following FDNY fraternal organizations: the Vulcan Society, Hispanic Society, and United Women Firefighters. One representative from each of three other fraternal organizations selected by the Fire Commissioner should also serve on this Committee.**

FDNY said that Commissioner Scoppetta has selected three other fraternal organizations: Fire Flag EMS-NY, Columbian Society, and Emerald Society to be members of the Advisory Committee.

The required action was completed in July 2002.

5. **FDNY should have a designated annual budget to cover all recruitment expenses. This budget, at a minimum, should provide for approximately 25 employees and all Other Than Personnel Services (OTPS) expenses.**

The FDNY submitted a breakdown of the Recruitment and Diversity Initiatives Unit operating budget. It included \$1,613,281 for 39 Personnel: 1 Battalion Chief; 15 Firefighters; 1 Captain; 20 Fire Cadets; 2 Civilians. Database and Web development Technicians were included as well. In addition, there was an additional \$200,000 available for overtime.

The required action was completed in September 2002.

6. **The five-point residency bonus should be awarded after firefighter applicants pass the written portion of the exam.**

FDNY said that it will follow DCAS' policy to add credits for residency to the final adjusted score of an applicant, not the mid-score.

The response to the required action was accepted in July 2002.

7. **Fire Marshals should be authorized to conduct field investigations of their residencies of firefighter applicants and these investigations should be conducted with the intent to remove applicants from the list who defraud the City.**

The Fire Department stated that the mission of the Fire Marshal is to investigate cause and origin of fires. The FDNY Bureau of Personnel's Candidate Investigation Unit conducts background investigations on all eligible applicants pending possible appointment from the civil service Firefighter list. The Candidate Investigation Unit has strict criteria for awarding points. The lack of adequate proof of residence will prevent the candidate from receiving residency credit; any falsification of records would result in disqualification of the candidates. If the Department learns that a Firefighter misrepresented his/her residency status as an applicant he/she will be dismissed.

On November 27, 2002, this Commission requested in writing, the following information from the FDNY:

1. The total number of applicants for the last exam;
2. How the Candidate Investigation Unit determined proof of residence;

3. How many candidates were found to have falsified their records;
4. What happened to the candidates who were dismissed as a result of falsifying residence status; and
5. How many candidates were dismissed or disqualified as a result of falsifying residence status.

FDNY submitted its response by fax on December 10, 2002 at 5:01 p.m.

The response to the required action was accepted in December 2002.

8. **Training for CFRD should be included in the Fire Academy curriculum, as it was in the past.**

The Fire Department said that it still requires individuals to obtain their CFR-D certification by the end of their probationary period. However, if a probationary firefighter does not possess a CFR-D at the time of appointment, they will be required to obtain CFR-D training at their own expense, either at a training program of their own choice or a training provided by the Fire Department. The training course provided by the Department will cost \$775. Upon successful completion of FDNY's CFR-D course and receipt of their CFR-D certificate, payroll deductions will commence at a rate of \$30 per pay period until the total cost is recouped by the Fire Department.

The response to the required action was accepted in October 2002.

11. **The Department should retain a consultant to develop the tutorial for the next written firefighter's examination. The members of the Advisory Committee should be involved in the selection of that consultant.**

The FDNY said that its Recruitment and Diversity Initiatives Unit has organized a free written examination training courses to assist candidates who failed to take the firefighter's exam. The training will cover general test taking information, nine ability areas, self study tips, multiple choice test strategies, preparation and review firefighter practice test. A copy of the Recruitment Unit Newsletter was submitted which listed the firefighter written exam training locations.

The required action was completed in October 2002.

12. **FDNY should develop a plan, which allows graduates of the Cadet Corps program to take a promotional test for firefighter. This test offered annually, should also be given in January, allowing adequate time for background investigations prior to graduation from the Cadet Corps the following June.**

The FDNY said that it had petitioned NYS Civil Service Commission to deem the Fire Cadet title to a non-competitive title. The Department was also working with DCAS to issue an annual promotion exam that would cover Cadets and EMS personnel who wish to transition to firefighter. However, in the recent decision, Gallagher v. The City of New York, the FDNY was enjoined from using a separate promotional list for EMS personnel.

Per the court decision, the FDNY must merge the lists of candidates who took the open and the

promotional examinations. The court also stated that the position of firefighter is entry-level and there is not enough overlap for EMS workers to be promoted to the position of firefighter.

The response to the required action was accepted in October 2002.

14. The open-competitive exam for firefighters should be held biannually.

The FDNY stated that while the open competitive exam for Firefighters is currently held every four years, it is examining the possibility of offering the exam every two years.

The response to the required action was accepted in October 2002.

15. All firefighter recruitment literature, including recruitment posters, should indicate that the Department is an equal opportunity employer.

The FDNY said that all its recruitment literature, including recruitment posters, will indicate that the Department is an equal opportunity employer. FDNY submitted "Heroes Wanted" posters and a copy of their latest FDNY newsletter, which contained the slogan.

The required action was completed in October 2002.

16. The Department should develop and administer a training program for the physical portion of the firefighters' exam.

The FDNY said that it cannot establish such a program, however, it encourages non-profit organizations and sports clubs, particularly New York's Sports Club, to assist candidates with their agility training.

The response to the required action was accepted in October 2002.

17. The Commissioner of the FDNY should disseminate an agency-wide memorandum to discuss audit findings.

The attached memorandum from ACS' Commissioner to the staff was distributed on October 25, 2002.

The required action was completed in October 2002.

FDNY has failed to implement the following corrective actions:

- 1. There should be a year-round recruitment team for each borough. All recruitment teams should include at least one African-American, one Hispanic, one Asian-American and one Caucasian. No less than one recruiter should be a female.**

The Department stated that it continues to strive to assemble multi-cultural teams for recruitment on a year round basis. The present recruitment team includes persons of races and genders as specified in the recommendation.

This Commission requested the race and gender breakdown of the recruitment team. To date the FDNY has not provided this information. FDNY stated that the recruitment team changes on a daily basis and that it could not provide a breakdown of race and gender because it would not be accurate.

The FDNY is in partial compliance with this recommendation.

3. **The Advisory Committee should be fully involved in all firefighter recruitment strategies and related decisions. In addition, management of the Fire Department should meet with the Committee at least on a quarterly basis and more frequently during the height of the recruitment campaign.**

The FDNY said that the last meeting of the Advisory Committee was held on August 19, 2002. The FDNY said that over the last several months the Commissioner, Deputy Commissioner for Administration, and Assistant Commissioner for EEO have met with the Vulcan Society, Hispanic Society and United Women Firefighters Association on separate occasions to discuss, among other matters, the strategy and operations of the Recruitment Unit. Meetings will continue to be held on a quarterly basis and the committee will be invited to comment and provide input on recruitment issues.

The FDNY has given no indication that the Advisory Committee is fully involved in all firefighter recruitment strategies and related decisions. The Commission requested verification in the form of a sign-in sheet, agenda, minutes or memo-to-file for the quarterly meetings. However, the FDNY said that no documentation was kept of the meeting. Documentation was not submitted.

The response to the required action was not accepted.

9. **FDNY, specifically its Office of Employment Initiatives, should assume prime responsibility for developing and implementing a program or strategy to reduce attrition by applicants in the underutilization groups--minorities and women.**

The FDNY said that the Recruitment Unit with the assistance of various fraternal associations will encourage, orient and train potential candidates as well as create, maintain and track a database of potential candidates for information and continuous follow-up. The Recruitment Unit will also work with various organizations to assist in training and mentoring women candidates.

This Commission requested documentation on all its mentoring activities. The Department has yet to submit this information.

FDNY has not fully implemented this recommendation.

10. **The Department should conduct an adverse impact study to determine if the new educational requirement disproportionately screens out members of historically**

under-represented groups. If the study reveals such disparate impact, the Department should conduct a validation study in accordance with the federal government's "Uniform Guidelines on Employee Selection Procedures."

The FDNY said that while it believes that the college requirement is relevant, they are giving the recommendation of conducting an adverse impact study ongoing consideration.

FDNY has not implemented this recommendation or provided a satisfactory alternative.

- 13. The Fire Department should conduct an adverse impact study based on the results of the written examination. If the Department's study reveals that the test disproportionately screens out minority or female candidates, FDNY should conduct a validation study in accordance with the federal government's "Uniform Guidelines on Employee Selection Procedures."**

The Fire Department said that it is giving this recommendation ongoing consideration.


FDNY has not implemented this recommendation or provided a satisfactory alternative.

Recommendation

Based on the above information, we recommend that the Equal Employment Practices Commission issue a Letter of Final Determination to the Commissioner of the New York City Fire Department (FDNY), Nicholas Scoppetta, informing him that the agency has only implemented eleven of the seventeen recommended corrective actions. Regarding the outstanding corrective actions, and to ensure full compliance with the equal employment opportunity requirements of Chapters 35 and 36 of the City Charter, the Letter should request that FDNY's Commissioner respond, within thirty days, in detail with his intention to implement the outstanding corrective actions.

Based on FDNY's response this Commission should establish a post-compliance period of no more than sixty days for the implementation of these outstanding corrective actions. If after the post-compliance period, the Commission determines that the FDNY has not taken appropriate and effective corrective action(s), this Commission shall notify Commissioner Scoppetta in writing of this determination and the Commission should thereafter publish a report and recommend to the Mayor whatever appropriate corrective action(s) the Commission deems necessary to ensure compliance with equal employment opportunity pursuant to the requirements of Chapter 35 and 36 of the New York City Charter.

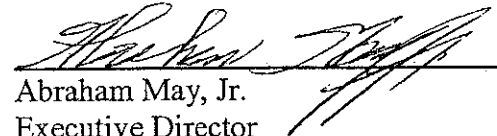
Respectfully Submitted,



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Lisa Badner, Counsel



Abraham May, Jr.
Executive Director

Attachment