



Vacant
Chair

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

Charise L. Terry
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Director of Learning and
Development

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676. 2724 fax

BY MAIL AND EMAIL

July 12, 2019

Noah D. Genel
Chair
Business Integrity Commission
100 Church Street, 20th Floor
New York, NY 10007

Re: Business Integrity Commission
Evaluation of Sexual Harassment Prevention and Response Practices
Audit Period: January 1, 2017 to December 31, 2018
Determination: **PRELIMINARY**

Dear Chair Genel:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you and your agency for the cooperation extended to our staff thus far. This letter contains the EEPC's evaluation and preliminary determinations pursuant to the Business Integrity Commission's Sexual Harassment Prevention and Response Practices for the period covering January 1, 2017 to December 31, 2018.

Purpose

Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective equal employment opportunity (EEO) for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed.

The Business Integrity Commission, hereinafter simply termed "agency" or "entity," falls within the EEPC's purview under Chapter 36, Sections 830(a) and 831(a) of the Charter, to review, evaluate, and monitor the coordination and implementation of affirmative employment programs of equal employment opportunity for 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 subject matter referenced, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope

The EEPC has adopted uniform standards for auditing municipal entities¹ and minimum standards for auditing Community Boards (collectively “Standards”) to review, evaluate, and monitor entities’ employment and EEO-related practices, procedures, approaches, measures, standards, and programs. These standards are founded upon, and consistent with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination. Corrective actions prescribed are consistent with the aforementioned parameters including, but not limited to, the City of New York’s *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies 2014*, as amended (Citywide EEO Policy); the New York City Human Rights Law (New York City Administrative Code Title 8); New York State Human Rights Law (New York Executive Law, Article 15); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

Policy and Plan Requirements

The aforementioned Standards require, at minimum, that mayoral entities distribute the Citywide EEO Policy; non-mayoral entities establish or adopt a comprehensive EEO policy; and Community Boards, which are comprised of members appointed by the respective Borough Presidents, adopt and distribute the corresponding Borough President’s EEO Policy.

Because the EEPC is authorized to review and recommend actions that each entity should consider including in its annual plan of measures and programs to provide equal employment opportunity, or Annual EEO Plan, entities are also required to incorporate the EEPC’s corrective actions in prospective Annual EEO Plans and programs.

Methodology

The EEPC communicates with 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, and 55-a Program Coordinators) and other employees identified as having involvement in EEO program administration such as the Principal Human Resources Professional and relevant Counsel.

The EEPC’s audit methodology includes review of the agency’s Annual EEO Plans and Quarterly EEO Reports; analysis of workforce and utilization data; and the collection and analysis of documents, records, and data an entity and its representatives provide in response to the Sexual Harassment Prevention and Response Preliminary Interview Questionnaires (PIQs). All PIQs contain requests to attach supporting documentation for the answer options selected.

EEO Professionals designated for online interviews are assigned a three-week deadline to complete and return the PIQs. The EEPC’s PIQ(s)/requests were sent to the Business Integrity Commission on February 11, 2019; the completed PIQ(s) were returned on March 4, 2019. Supporting documentation was attached. Additional requests for information were made on March 21, 2019, April 3, 2019, April 17, 2019 and May 17, 2019.

The following determination indicates where the Business Integrity Commission has or has not complied, in whole or in part, with the established Standards.

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

Description of the Agency

The Business Integrity Commission (“BIC” or the “Commission”) is both a law enforcement and regulatory agency charged with oversight of the private carting industry throughout the five boroughs, the city's public wholesale markets and the shipboard gaming industry. It is empowered to investigate applicants, issue licenses and registrations, conduct criminal and regulatory investigations, enforce applicable laws and promulgate rules and regulations that govern the conduct of the businesses it oversees. The Commission is composed of a Chair appointed by the Mayor and the Commissioners of the New York City Police Department and the Departments of Investigations, Sanitation, Small Business Services, and Consumer Affairs. (Source: The Green Book, 3/2019). The CEEDS Report: *Work Force Composition Summary* for the Business Integrity Commission, attached as Appendix 1, indicated that at the end of the period in review, the Commission's headcount was 81.

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 compliance with the standards for this subject area.

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.

✓ BIC reported that *The City of New York, Business Integrity Commission, Employee Handbook* (Employee Handbook), attached as Appendix 2, was posted on its intranet page in March 2017. Section II, *Equal Opportunity Employment* of the Employee Handbook stated, "*BIC is an equal employment opportunity employer committed to compliance with all applicable laws prohibiting discrimination*" and that "*[a]chieving and maintaining equal employment opportunity for BIC employees and applicants is the highest priority for the Commission*", thereby reiterating a commitment to the prevention of discrimination. On May 24, 2018, the principal EEO Professional posted and emailed all employees the Commissioner/Chair's *Sexual Harassment Policy Statement* (Policy Statement), attached as Appendix 3, that reiterated, "*[t]he Business Integrity Commission is committed to providing a safe environment for all employees, free from discrimination and harassment in any form, including sexual harassment. Sexual harassment is a form of employment discrimination prohibited by the EEO Policy and law.*"

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 Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

✓ A link to the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies, City of New York 2014* (EEO Policy), attached as Appendix 4, was provided in the Policy Statement that was emailed to all employees on May 24, 2018 and posted on BIC's intranet. The EEO Policy contained the following sections pertaining to sexual harassment: Section I(A) *Types of Prohibited Conduct*, which stated, "[t]he policy also prohibits sexual harassment (i.e., conduct or language of a sexual nature) and harassment based on gender or any other protected characteristic", a definition of sexual harassment in Section II(A) and procedures for investigating discrimination/sexual harassments complaints in Section III. The Policy Statement provided: current contact information for BIC's principal EEO Professional; and links to *About EEO: What You May Not Know, City of New York* (EEO Handbook) and the *EEO Complaint Procedural Guidelines, City of New York 2016* (EEO CPG). The EEO CPG, attached as Appendix 5, contained uniform and responsive procedures for investigating discrimination/sexual harassment complaints and contact information for federal, state, and local agencies that enforce laws against discrimination/sexual harassment. BIC reported that new employees were provided a copy of the EEO Policy during orientation.

NOTE: The following protected classes are not in the EEO Policy: "consumer credit history", "familial status", and "caregiver status". If the Commission distributes this document, it should include the EEO Policy Addendum 2017² or an updated list of the protected classes covered by the EEO Policy. Additionally, the address listed for the New York City Commission on Human Rights in the *EEO Complaint Procedural Guidelines, City of New York 2016* is no longer current. If the Business Integrity Commission distributes this document, it should include an updated address for the New York City Commission on Human Rights with that distribution or distribute the 2018³ version of the *EEO Complaint Procedural Guidelines, City of New York* that includes the current address for New York City Commission on Human Rights and other pertinent information.

II. Training for the Agency

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

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

✓ During the period in review, BIC established a training plan for new and existing employees, including managers and supervisors as part of its annual *Diversity and Equal Employment Opportunity Plan*. The training plan detailed that all employees would complete an annual online training entitled: *Sexual Harassment and Risk of Fraternization*. In lieu of the planned training and according to training records, 77 employees (approximately 95.6% of the Commission's 81 employees) completed the Department of Citywide Administrative Services' (DCAS) *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* computer-based training between July and December of 2018. According to DCAS' *Citywide Training Center Course Catalog*, the following topics were included in the *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* training: "[d]efinitions and examples of sexual harassment, [h]ow sexual harassment is a form of unlawful discrimination

² Located at http://extranet.dcas.nycnet/eoo/diversityeeo/media/40559/Final-Addendum-to-EEO-Policy_102517.pdf

³ Located at http://www.nyc.gov/html/dcas/downloads/pdf/misc/eoo_complaint_procedural_guidelines_2018.pdf

under federal, state and local law, [t]he role of the New York City Commission on Human Rights (NYC CHR), the New York State Division of Human Rights (NYS DHR), and the United States Equal Employment Opportunity Commission (US EEOC), and the complaint procedures, [t]he complaint process for employees, managers, and supervisors, the prohibition of retaliation, [and] [t]he importance of bystander intervention."

III. Complaint and Investigation Procedures

Summary of Complaint Activity: The agency reported 0 internal and 0 external complaints were filed during the period in review.

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

4. Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.

✓ The complaint intake form contained in the EEO CPG, BIC's adopted complaint procedures, provided space to capture: "*Complainant Contact Information*," "*Respondent's Information*," a "*Description of the nature of the complaint*," and "*Action(s) taken by the EEO Office*."

5. Provide the option to file a complaint anonymously.

✓ The option to file a complaint anonymously was provided to employees via *The Intake Phase* section of the EEO CPG that established, "*[t]he person making the complaint may do so anonymously, if he or she so chooses. Anonymous complaints must be treated the same as identified complaints, to the extent possible.*" The option to file an anonymous complaint was also provided via the Policy Statement that was distributed by email on May 24, 2018, and which stated, "*[a]n employee can make a complaint without revealing his or her identity.*" Furthermore, BIC reported that during new employee orientation and as part of the Sexual Harassment Prevention training the option to file a complaint anonymously was verbally communicated.

6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

✓ The EEO CPG contained a *Notice to Respondent of the Complaint* section, which stated, "*[t]he EEO Office must serve Respondent with a notice of complaint along with a redacted copy of the complaint or a summary of the complaint and allegations after interviewing the Complainant.*" It further stated, "*[s]chedule a meeting with Respondent, ensuring that Respondent is informed of the right to be accompanied by a representative*", "*[i]nform Respondent of the right to respond in writing to the complaint, and that the response should be submitted as soon as possible.*"

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated,

withdrawn or resolved by agreement of the parties or EEO Office.

✓ In the *Mediation* section of the EEO CPG, it was established, "[a] party may withdraw from mediation at any time. The EEO Office may also terminate the mediation process if it deems that the effort has been unproductive. The EEO Office must inform all parties to the complaint, in writing, of the termination of mediation. The notice must also inform the parties that the EEO Office will resume its investigation of the complaint." The *Mediation* section of the EEO CPG also stated, "[i]f the parties agree to a resolution during mediation, a resolution agreement will be drafted and provided to the parties and referring EEO Officer." Section III(C) of the EEO Policy similarly stated, "[a] complaint of discrimination may be withdrawn at any time by the person who filed the complaint. Withdrawal of a complaint must be made or confirmed in writing." The EEO Policy also specified in Section III(D) that "[m]ediation may be terminated by any party to the mediation. If this occurs, the EEO Officer will inform the other party or parties in writing that the mediation has been terminated."

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

✓ The *Investigation* section of the EEO CPG specified, "[d]uring each interview, take thorough notes, as close to verbatim as possible. Notes should reflect the content of the interview, both the questions and answers, as completely as possible" and also mentioned, "[a]ll complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office."

9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

✓ It was stipulated in the *Investigation* section of the EEO CPG that, "[t]he complaint investigation should begin immediately after a determination that the allegations raised, if true, are sufficient to establish discrimination under the Policy," and that "[t]he complaint investigation should be completed and the Complainant should be notified of the outcome within 90 calendar days of the filing of a complaint."

10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

✓ Section F, *Preparing the Final Report*, of the EEO CPG stated, "[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report."

11. Generate at the end of each complaint investigation, a conclusive confidential report which

includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

✓ The *Preparing the Final Report* section of the EEO CPG stated, "[a]fter all the relevant facts have been gathered, the EEO Officer must prepare a confidential written report on the complaint investigation and must submit the report to the Agency Head for review...The written report should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation."

12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

✓ BIC reported that EEO related files are stored in a secured file cabinet located inside of the principal EEO Professional's office, in addition to being stored in an electronic file/folder with access limited to the principal EEO Professional and Commissioner.

13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

✓ In the *Preparing the Final Report* section of the EEO CPG, it stated, "[a]fter all the relevant facts have been gathered, the EEO Officer must prepare a confidential written report on the complaint investigation and must submit the report to the Agency Head for review" and that "[t]he Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified. After review of the report by the Agency Head, the EEO Office should inform all parties in writing of the outcome of the investigation." Similarly, Section III(E) of the EEO Policy established that "[t]he EEO Officer will submit a confidential report of the complaint investigation to the agency head at the conclusion of the investigation. If the EEO Officer concludes that a violation of this Policy has occurred, the EEO Officer will recommend appropriate corrective action. The agency head will review the EEO Officer's report and promptly issue a determination adopting, rejecting or modifying the recommended action. Such determination shall be in writing and may be issued electronically. The EEO Officer will advise all parties in writing of the outcome of a complaint." Section V(B) declared, "[a]gency heads are required to sign off on all agency Diversity and EEO Plans and final determinations concerning EEO complaint resolutions and should conduct a quarterly review of EEO complaints and requests for accommodations. Such sign off may be in written or electronic form."

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

✓ In the *Preparing the Final Report* section of the EEO CPG, it was stated, "[a]fter review of the report by the Agency Head, the EEO Office should inform all parties in writing of the outcome of the investigation" and "[t]he decision after investigation should be communicated to the parties, in writing, in a discreet and confidential manner, indicating the conclusion reached, whether the misconduct alleged has been substantiated, and the agency's opposition to that kind of activity." Additionally, the *Investigation* section of the EEO CPG stated, "[t]he complaint investigation should be completed and the Complainant should be notified of the outcome within 90 calendar days of the filing of a complaint." Similarly, Section III(E) of the EEO Policy specified that "[t]he EEO Officer will advise all parties in writing of the outcome of a complaint."

15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

✓ The *Preparing the Final Report* section of the EEO CPG stated, "[t]he decision after investigation should be communicated to the parties, in writing, in a discreet and confidential manner, indicating the conclusion reached, whether the misconduct alleged has been substantiated, and the agency's opposition to that kind of activity."

16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

✓ The *Intake Phase* section of the EEO CPG stated, "[i]f an external complaint or lawsuit is filed subsequent to the filing of the internal complaint, the matter must also be transferred to the agency's Office of General Counsel. The EEO Office must notify Complainant (and Respondent, if any) in writing of the transfer."

17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

✓ During the period in review, BIC had access to DCAS' *Citywide Equal Employment Database System*, which contained an electronic EEO complaint tracking system that captured: *Status*, *Length of time elapsed in the EEO complaint process*, *Basis of the complaint*, *Complainant name(s)*, *Respondent name(s)*, *Date Filed*, *Date resolved*, and *Incident Description*. The *Intake Phase* section of the EEO CPG stipulated, "[u]pon receiving an EEO complaint or inquiry, the EEO Office must memorialize the complaint or inquiry and enter it into the complaint tracking system" and "[t]he EEO Office should ensure that a Complaint Form is completed, preferably by Complainant although it can be done by the EEO Office, but should be signed by Complainant, and logged into the complaint tracking system."

NOTE: BIC reported no internal or external employment discrimination complaints were filed during the period in review. BIC's utilization of its established complaint tracking system could not be meaningfully measured for the period in review and further evaluation of this area was impractical.

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

✓ Emails confirmed that the General Counsel and the principal EEO Professional met on November 12, 2018 to discuss the *Annual Diversity and EEO Plan* for the 2019 fiscal year. In October 2018, the General Counsel and principal EEO Professional collaborated to complete the *NYC Agency Risk Assessment* (Risk Assessment), which was later signed by the Commissioner of BIC. The Risk Assessment stated, "*Local Law 93 of 2018 requires city agencies to assess workplace risk factors associated with sexual harassment in order to help provide a fair and safe work environment for all city workers.*" Section III(F) of the EEO Policy outlined certain responsibilities of the General Counsel by stating, "*[t]he agency General Counsel will be responsible for handling external complaints regardless of the timing of such complaints (whether filed before the internal complaint is filed, at the same time that the internal claim was filed, or after the internal complaint was filed). After transfer of the complaint to the agency General Counsel, the EEO Officer will cooperate with the General Counsel with respect to the ultimate resolution of the complaint.*" Additionally, the *Preparing the Final Report* section of the EEO CPG stated, "*[t]he EEO Officer should routinely consult the agency's Office of General Counsel on questions that arise while preparing the written report or at any phase of the investigation.*"

NOTE: BIC reported no internal or external employment discrimination complaints were filed during the period in review. As a result, aspects of this standard could not be meaningfully measured for the period in review and further evaluation of this area was impractical.

IV. Annual Review of Practices, Policies and Programs

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

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

✓ In October of 2018, the principal EEO Professional, HR Professional, and General Counsel conducted a review of the following areas associated with sexual harassment in preparation for completing the Risk Assessment: "*[h]omogenous workforce, such as work environments with low diversity with respect to age, ethnicity, gender, race, or sex; [l]anguage differences in the workplace; [w]orkplaces with significant power disparities such as workplaces where employees hold positions usually subject to the direction of others; [i]solated workplaces such as workplaces where employees work alone or have few opportunities to interact with others; and [d]ecentralized workplaces such as workplaces that are geographically dispersed.*" The assessment resulted in the identification of isolated workplaces that potentially increased the risk of sexual harassment. BIC determined

corrective action was required and provided the EEPC with documentation of the steps that were taken to correct these areas.

NOTE: BIC reported no internal or external employment discrimination complaints were filed during the period in review. Therefore no review of BIC's annual number of complaints was conducted.

V. Responsibility for Implementation - EEO Professionals

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

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

✓ BIC's principal EEO Professional (at the beginning of the period in review), completed the following DCAS' Citywide Learning and Development (L&D) trainings: *Reasonable Accommodation Procedural Guidelines* (2015), *EEO Complaint Procedural Guidelines Launch* (2016) and *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* (2018). In May 2018, BIC appointed the current principal EEO Professional and notified employees by email on May 24, 2018 in the Policy Statement, which was attached and included contact information for the newly appointed principal EEO Professional. Training records indicated that the principal EEO Professional completed the following DCAS' Citywide L&D trainings: *Building an Inclusive Culture: Understanding Unconscious Bias* (2018), *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* (2018) and a two-day *EEO Investigation Workshop* (2018). According to the two-day *EEO Investigation Workshop* (2018) agenda, the following topics were included: protected characteristics under the City's EEO Policy, the EEO complaint process under the City's Complaint Procedural Guidelines, intake interview/role play, and EEO investigative report writing. The two-day *EEO Complaint Investigation Workshop* (2018) *Resources Handout* covered the following topics: "*Federal Laws & Their Protections, New York State Human Rights Law: Protections, [and] New York City Human Rights Law: Protections.*"

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

✓ The principal EEO Professional was provided with access to training on EEO related laws, policies, and procedures, as demonstrated by the training attended during the period in review (see §V.20 for details about the principal EEO Professional training during the period in review). Additionally, BIC reported that an EEO Counselor/Administrative Manager provided support to the principal EEO Professional in meeting EEO obligations by answering inquiries from employees, conducting EEO related training presentations, and performing administrative tasks.

NOTE: Subsequent to the period in review, in May 2019 the EEO Counselor/Administrative Manager separated from the Commission. On May 21, 2019 employees were notified by email of the appointment of the EEO Coordinator/Investigator to support the principal EEO Professional in meeting EEO obligations. BIC reported that the newly appointed EEO Coordinator/Investigator was

responsible for coordinating EEO-related trainings with HR, tracking DCAS trainings, and assisting in preparation of Agency Quarterly Reports on EEO activity.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

✓ At the end of the period in review, BIC's 81 employees were housed in a single office location. The EEO Office consisted of the principal EEO Professional/Disability Rights Coordinator and an EEO Counselor/Administrative Manager.

The EEO Counselor/Administrative Manager completed the following DCAS' Citywide L&D trainings: *Building an Inclusive Culture: Understanding Unconscious Bias* (2016), *Structured Interviewing and Unconscious Bias* (2016), *EEO Complaint Procedural Guidelines Launch* (2016), *Diversity and Equal Employment Opportunity Basic Training* (2016), *LGBT: Are You Ready for the "T" - Creating an Inclusive Culture for Transgender* (2016), *Everybody Matters* (2016), *Workplace Realities: Responding to People with Disabilities* (2016) and *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* (2018).

NOTE: Subsequent to the period in review, in May 2019 the EEO Counselor/Administrative Manager separated from the Commission. On May 21, 2019 employees were notified by email of the appointment of the EEO Coordinator/Investigator to support the principal EEO Professional in meeting EEO obligations. The EEO Coordinator/Investigator completed the following DCAS' Citywide L&D trainings: *Structured Interviewing and Unconscious Bias* (2016), *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* (2018), *Diversity and Inclusion Computer Based Training* (2019), and *EEO Awareness Computer Based Training* (2019). The *EEO Awareness Computer Based Training* (2019) curriculum contained the following topics: "what is EEO, the City's EEO Policy, why EEO is important, legally protected characteristics, how to file an EEO complaint, reporting a complaint anonymously, retaliation, resolving your complaint, [and] mediation."

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

✓ In October of 2018, the General Counsel and principal EEO Professional worked cooperatively to assess risk factors associated with sexual harassment by evaluating the Commission's policies regarding the placement of staff and work areas to reduce the risk of sexual harassment (see §IV.19 for details of the Risk Assessment). In addition, emails between the General Counsel and the principal EEO Professional indicate that they met on November 12, 2018 to discuss the Annual Diversity and EEO Plan for the 2019 fiscal year, which was endorsed by the Commissioner and submitted to the EEPC.

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats

(i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

✓ During the period in review, the principal EEO Professional maintained a tracking sheet to ensure that employees/managers received sexual harassment prevention training. On May 24, 2018, the principal EEO Professional distributed the policies against sexual harassment and complaint procedures via email, and posted the same on BIC's intranet page. Screenshots of BIC's intranet page showed that EEO-related policies were available in large print format and provided the option for translation into several languages such as: Haitian Creole, Italian, Korean, Russian, simplified Chinese and Spanish. BIC's 2018 Policy Statement specified, "[t]he *EEO Officer will promptly handle all complaints, investigations and dispositions.*" BIC responded affirmatively to the EEPC's preliminary interview questions that the principal EEO Professional supervised the activities of the EEO Counselor/Administrative Manager and provided guidance to the Commission's managers, supervisors and human resource professionals in addressing issues related to sexual harassment.

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ BIC's organizational chart illustrated that the principal EEO Professional reported directly to the Commissioner for EEO responsibilities.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

✓ In October of 2018, the Commissioner, principal EEO Professional, HR Professional, and General Counsel conducted an assessment of risk factors associated with sexual harassment, in which they reviewed the Commission's policies regarding the placement of staff and work areas. BIC identified that isolated workplaces increased the potential risk for sexual harassment. Corrective measures that impacted the operation of policies were approved by the Commissioner, as evidenced by their endorsement of BIC's annual *Diversity and Equal Employment Opportunity Plan* for fiscal year 2019.

VI. Responsibility for Implementation – Supervisors/Managers

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

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

✓ During the period in review, BIC communicated the expectation that managers and supervisors were accountable for enforcing the sexual harassment prevention policies and complaint procedures via the Policy Statement, which was distributed to employees via email on May 24, 2018, and stated, "[a] supervisor, manager, member of human resources or staff must promptly notify the EEO Officer

in writing either via email or a memorandum if they receive a complaint alleging sexual harassment or if they observe, learn about, or suspect that any violation of the Policy has occurred" and "[m]anagers and supervisors should encourage subordinates to consult with the EEO Officer." BIC also documented its expectation of managers in Section III of the *Diversity and Equal Employment Opportunity Plan* for fiscal year 2018, in which the Commissioner stated, *"I will continue to hold all managers, supervisors, EEO and Human Resource personnel accountable for the effective implementation of the City's EEO Policy."* Likewise, the EEO CPG stated, *"[s]upervisors and managers are required under the Policy to timely notify their EEO Office of any alleged discriminatory conduct they observe or become aware of."* To ensure and document implementation of these expectations, BIC's managerial performance evaluation included the following standard *"support of the Agency's Equal Employment Opportunity Policies, programs, and procedures."*

28. Ensure 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).

➤ BIC did not ensure that the managerial performance evaluation form contained a rating for EEO, (which covered 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). **Corrective Action Required.**

NOTE: To decrease ambiguity, the EEO component of BIC's managerial performance rating should, at a minimum, specify the role of the manager/supervisor as outlined in the policies, procedures, etc. to which it refers. The EEPC recommends that BIC incorporate specific relevant expectations, such as the language of Section V(E) of the EEO Policy that details enforcement and accountability standards for managers and supervisors, into the performance evaluation rating.

Corrective Action #1: Ensure 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).

VII. Reporting Standard for Agency Head

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

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

✓ During the period in review, BIC submitted its annual *Diversity and Equal Employment Opportunity Plans* for fiscal years 2017, 2018, and 2019; as well as *Quarterly Diversity and EEO Reports* for the 3rd and 4th quarters of fiscal year 2017 and the 1st, 2nd, and 3rd quarters of fiscal year 2018.

NOTE: If submitted, Quarterly Reports on EEO Activity should be consistently submitted to the EEPC within 30 days following each quarter and include a breakout of sexual harassment complaint activity in each quarterly report. During the period in review, BIC did not submit *Quarterly Diversity and EEO*

Reports for the 4th quarter of fiscal year 2018 nor the 1st and 2nd quarters of fiscal year 2019.

30. Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

FINAL ACTION: Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

Summary of Corrective Actions:

The Business Integrity Commission has 2 required corrective action(s) at this time. This includes the aforementioned final action.

Conclusion

Pursuant to Charter Chapter 36, the Business Integrity Commission has the *option* to respond to this Preliminary Determination, but must respond to our Final Determination if corrective action is required. **Any response must be signed by the agency head and submitted to the EEPC's Executive Director.**

Optional Response to Preliminary Determination: If submitted, the Business Integrity Commission's optional response to the EEPC's Executive Director should indicate, with attached documentation, what steps have been or will be taken to correct outstanding areas of non-compliance, 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) If requested, at the Optional Conference the EEPC will discuss the immediate steps that should be taken to correct outstanding areas of non-compliance and address questions regarding the Business Integrity Commission's implementation of the prescribed corrective action(s).

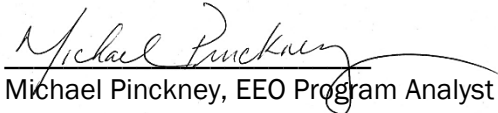
(No Response Option) If the Business Integrity Commission does not respond to this Preliminary Determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this Preliminary Determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective action(s) based on verified information submitted as part of the response to the Preliminary Determination; identify remaining corrective action(s) that require further monitoring to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Charter Chapter 36, upon receipt, the Business Integrity Commission must submit a response, signed by the agency head, 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,


Michael Pinckney, EEO Program Analyst

Approved by,


Charise L. Terry
Executive Director

c: Pamela Peralta, Esq., Principal EEO Professional
Ilacia Zuell, Manager, EEO Analysis and Audit

Appendix - 1

Business Integrity Commission
CEEDS Report: *Work Force Composition Summary*
2nd Quarter of Fiscal Year 2019
(End of Audit Period)

RUN DATE: 01/07/19
 RUN TIME: 08:09:34.7

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
 WORK FORCE COMPOSITION SUMMARY
 QUARTER 2 YEAR 2019 AGENCY 831 BUSINESS INTEGRITY COMMISSION

PAGE: 224
 REPORT: EBEP210

AGENCY CODE : 831 BUSINESS INTEGRITY COMMISSION
 EEO JOB GROUP : 001 ADMINISTRATORS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP	
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN			
94525	CHAIR (BIC)	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
95149	FIRST DEPUTY COMMISSIONER	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
95150	DEPUTY COMMISSIONER OF INV	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		3	0	0	0	0	0	0	0	0	0	0	0	0	0	3
		100.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 831 BUSINESS INTEGRITY COMMISSION
 EEO JOB GROUP : 002 MANAGERS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP	
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN			
10001	ADMINISTRATIVE ACCOUNTANT	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1
10020	ADMINISTRATIVE INVESTIGATO	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
10022	ADMINISTRATIVE COMMUNITY R	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
10026	ADMINISTRATIVE STAFF ANALY	1	0	2	0	0	0	0	0	0	0	0	1	0	0	4
10050	COMPUTER SYSTEMS MANAGER	0	0	1	1	0	0	0	0	0	0	0	0	0	0	2
95005	EXECUTIVE AGENCY COUNSEL	4	0	0	0	0	0	3	0	1	0	0	0	0	0	8
95151	DIRECTOR OF INVESTIGATIONS	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
95152	DIRECTOR OF INVESTIGATIVE	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		7	0	3	1	0	0	5	0	1	1	0	1	0	0	19
		36.85	0.00	15.79	5.26	0.00	0.00	26.32	0.00	5.26	5.26	0.00	5.26	0.00	0.00	100.00

AGENCY CODE : 831 BUSINESS INTEGRITY COMMISSION
 EEO JOB GROUP : 003 MANAGEMENT SPECIALISTS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP	
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN			
1002C	ADMINISTRATIVE MANAGER NON	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
12627	ASSOCIATE STAFF ANALYST	1	0	0	0	0	0	0	0	0	1	0	0	0	0	2
33972	MARKET AGENT	0	2	3	1	0	0	0	1	1	0	0	0	0	0	8
40502	MANAGEMENT AUDITOR	0	0	0	0	0	0	0	0	0	2	0	0	0	0	2
EEO JOB GROUP TOTAL.....:		1	2	3	1	0	0	0	1	2	3	0	0	0	0	13
		7.70	15.38	23.08	7.69	0.00	0.00	0.00	7.69	15.38	23.08	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 831 BUSINESS INTEGRITY COMMISSION
 EEO JOB GROUP : 004 SCIENCE PROFESSIONALS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN		

RUN DATE: 01/07/19
 RUN TIME: 08:09:34.8

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
 WORK FORCE COMPOSITION SUMMARY
 QUARTER 2 YEAR 2019 AGENCY 831 BUSINESS INTEGRITY COMMISSION

PAGE: 226
 REPORT: EBEP210

AGENCY CODE : 831 BUSINESS INTEGRITY COMMISSION
 EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
56056	COMMUNITY ASSISTANT	0	1	0	0	0	0	0	0	0	0	0	1	0	2
56057	COMMUNITY ASSOCIATE	5	2	2	2	0	0	9	2	6	1	0	0	0	29
56058	COMMUNITY COORDINATOR	1	0	1	1	0	0	0	1	0	0	0	1	0	5
EEO JOB GROUP TOTAL.....:		6	3	3	3	0	0	9	3	6	1	0	2	0	36
		16.67	8.33	8.33	8.33	0.00	0.00	25.00	8.33	16.67	2.78	0.00	5.56	0.00	100.00

AGENCY TOTAL.....:		20	5	9	5	0	0	15	8	9	6	0	4	0	81
		24.69	6.17	11.11	6.17	0.00	0.00	18.52	9.88	11.11	7.41	0.00	4.94	0.00	100.00

Appendix - 2

Business Integrity Commission
Policy Statement

*The City of New York Business Integrity Commission Employee Handbook, Section II: Equal Opportunity Employer Pgs.10-11
March, 2017*

- children of employees that attend public school in the City of New York.

The City's residency requirements are discussed in Section VII.A, herein.

Fair Labor Standards Act (FLSA)

The Fair Labor Standards Act (FLSA) is a federal labor law, codified under Title 29 of the Code of Federal Regulations, which establishes, among other things, requirements regarding overtime, minimum wages, and equal pay. FLSA applies to employees in the private sector and in Federal, State and Local government with few exceptions.

Permanent Employee

A permanent employee is an employee who has passed a Civil Service exam for their assigned title and who is thus certified in a permanent Civil Service title.

Domestic Partner

Under the definition provided in Mayoral Executive Order No. 48, domestic partners are two people, both of whom are 18 years of age or older, neither of whom is married or related by blood in a manner that would bar their marriage in New York State, who have a close and committed personal relationship, who live together and have been living together on a continuous basis, who have registered as domestic partners and have not terminated the domestic partner relationship.

Managerial Employee

Managers are those employees in titles classified by the Department of Citywide Administrative Services (DCAS) with significant policy, administrative, supervisory, managerial or professional duties that require the exercise of independent judgment. Managers make decisions that impact the mission of the agency or the City.

Non-managerial Employee

These positions/titles are not "Managerial" as defined in Section I. above. Salaries for these titles/positions are determined by either a collective bargaining unit or by original jurisdiction.

Original Jurisdiction Employee

Original Jurisdiction (OJ) titles are not certified to be represented by a union and have salary ranges and terms and conditions of employment set by the Mayor, under NYC Charter §814.10, pursuant to the "original jurisdiction of the Mayor."

SECTION II: EQUAL OPPORTUNITY EMPLOYER

BIC is an equal employment opportunity employer committed to compliance with all applicable laws prohibiting discrimination based on age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, domestic violence victim status or any other characteristic protected by applicable law. All such discrimination is unlawful and prohibited at BIC. This policy applies to all policies and

procedures relating to recruitment and hiring, compensation, benefits, termination and all other terms and conditions of employment.

Achieving and maintaining equal employment opportunity for BIC employees and applicants is the highest priority for the Commission. Employees should report every instance of perceived unlawful discrimination to BIC's EEO Officer, regardless of whether employee or someone else is the subject of the discrimination. If the investigation determines that prohibited discriminatory conduct, or other conduct in violation of BIC's policies has occurred, BIC will investigate and take appropriate disciplinary action. The employee will be informed of whatever action(s) BIC undertakes to resolve and remedy the situation. BIC prohibits retaliation against an employee or any other party for submitting a report of unlawful discrimination or for cooperating in any investigation.

SECTION III: HIRING PROCESS

When BIC determines there is a vacancy to be filled, the department head will work with the Human Resources Department ("HR") to create, or review and update a job description for the vacant position. Once created, HR will post the position on the NYC Careers Website, the BIC Website, various employment websites, and local colleges, when appropriate. Once a candidate is identified, an offer will be extended and a tentative start date will be selected pending OMB approval and contingent upon a satisfactory background check conducted through the Department of Investigations.

All new hires will meet with HR on their first day for an orientation. At that time, new employees will complete the new hire paperwork, and receive their BIC and building IDs, keys and equipment. Employees shall sign for all BIC/building property and are required to return all assigned property upon their departure from BIC service.

A. Probationary Period

A probation period is a limited period of time that commences when an employee starts a position. The probation period is used to assess the employee's job performance and provide feedback to the employee.

For employees appointed from competitive civil service lists, the probationary period is the final phase of the selection process. Candidates must be notified in writing of the applicable probationary period before commencing employment. Pursuant to the Personnel Rules and Regulations of the City of New York ("PRR"), all employees appointed from open competitive lists must serve a one-year probationary period. The probationary period begins on the date the employee reports for work in the title after appointment from the list.

Labor class, non-competitive class and exempt class employees also serve probationary periods. The probationary period for employees appointed to the labor class is one year. Exempt class appointments, including those in Original Jurisdiction titles, is six months. Completion of the probationary period does not grant the exempt employee permanent tenure.

Employees appointed on a provisional or temporary basis do not serve probationary periods. Provisional employees covered by the Citywide Agreement gain disciplinary rights after two years of service, but are not considered to be permanent employees.

Appendix - 3

Business Integrity Commission
Sexual Harassment Policy Statement
May 24, 2018



BUSINESS INTEGRITY COMMISSION SEXUAL HARASSMENT POLICY STATEMENT

May 24, 2018

The City of New York is an equal opportunity employer. The City's Equal Employment Opportunity ("EEO") Policy prohibits employment discrimination based on race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation, uniformed service or alienage or citizenship. Every City employee – paid or unpaid, permanent or temporary, managerial or non-managerial – is protected from unlawful discrimination by the EEO policy and by federal, state, and local anti-discrimination laws. The EEO Policy and anti-discrimination laws protect those who seek to work for the City, as well.

The Business Integrity Commission is committed to providing a safe environment for all of its employees, free from discrimination and harassment in any form, including sexual harassment. Sexual harassment is a form of employment discrimination prohibited by the EEO Policy and law. All Commission employees should be familiar with the EEO Policy's protections against sexual harassment. The EEO Policy incorporates the protection provided by federal, state and local laws and implements them by providing for disciplinary sanctions to be imposed on employees who engage in sexual harassment.

Federal guidelines define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." Under the New York City Human Rights Law, verbal or physical conduct that treats a person "less well" because of gender is unlawful.¹ Moreover, verbal conduct includes comments on a worker's appearance, age, or private life; sexual comments; repeated and unwanted social invitations for dates or physical intimacy; insults based on the sex or sexual orientation of the workers; or condescending or paternalistic remarks.

Sexual harassment may involve individuals of the same or different genders. A broad range of conduct by supervisors and co-workers may constitute sexual harassment, including, but not limited to, making remarks or gestures or displaying pictures that are sexually suggestive; engaging in verbal banter, abuse or harassment of a sexual nature; requesting – directly or subtly – sexual favors; and subjecting another person to unwelcome touching, patting, pinching or other contact.

¹ Gender includes actual or perceived sex and includes a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

Sexual harassment is strictly prohibited. Employees who violate this policy are subject to discipline, including termination. Persons who violate this policy may also be subject to civil damages or criminal penalties.

The City's policy prohibiting sexual harassment does not forbid consensual social relationships between employees. But it does prohibit gender-based conduct – such as that described above – which is unwanted or creates an intimidating and hostile work environment. Moreover, the Commission has a zero tolerance policy regarding harassing conduct. All sexual harassment is prohibited whether it takes place on Commission premises or any location that could be reasonably regarded to be an extension of the workplace, such as any field location, offsite business-related social function, city vehicle, or facility where City government business is being conducted.

The Commission urges anyone covered by the NYC EEO Policy who believes he or she has been subjected to sexual harassment or any unwelcome sexual attention to report the conduct to a supervisor or manager or to the agency EEO Officer. The EEO Officer is Pamela P. Peralta; her phone number is 212-437-0587, and her email address is pperalta@bic.nyc.gov. It is important to report all concerns about sexual harassment or inappropriate sexual conduct to a supervisor, manager or the EEO Officer as soon as possible. A supervisor, manager, member of human resources or staff *must* promptly notify the EEO Officer in writing either via email or a memorandum if they receive a complaint alleging sexual harassment or if they observe, learn about, or suspect that any violation of the Policy has occurred. The EEO Officer will promptly handle all complaints, investigation and dispositions. Managers and supervisors should encourage subordinates to consult with the EEO Officer.

Investigation of a Complaint

Once the EEO officer is made aware of a complaint (either by the complainant or by the complainant's supervisor), he or she will determine if the complaint is EEO related. The EEO officer will discuss and research options for actions the complainant may take, including referrals to other offices or agencies. The EEO officer will then conduct a thorough investigation, including reviewing the complaint, interviewing all appropriate parties, and reviewing evidence. After completing the investigation, the EEO officer will draft a written report outlining the outcome of the investigation. The report will be presented to the Commissioner for approval and adoption of the findings. If the complaint is substantiated, corrective action will be taken.

Anonymous Complaint

An employee can make a complaint without revealing his or her identity. In cases where an EEO officer receives an anonymous complaint, he or she will investigate the complaint, to the extent possible.

Discipline

Employees who violate this policy are subject to appropriate discipline. If an investigation results in a finding that this policy has been violated, the mandatory minimum discipline is a written reprimand. The discipline for very serious or repeated violations is termination of employment. Persons who violate this policy may also be subject to civil damages or criminal penalties.

Complaints of sexual harassment will be handled under the New York City Equal Employment Opportunity Policy and Procedures. The following are important links for further information regarding the City's EEO Policy:

1. EEO Policy: <http://www.nyc.gov/html/dcas/html/about/eeopol.shtml>.
2. About EEO Handbook (companion booklet to the EEO Policy):
http://www.nyc.gov/html/dcas/html/about/eoo_booklet.shtml
3. EEO Complaint Procedural Guidelines:
http://www.nyc.gov/html/dcas/downloads/pdf/misc/eoo_discriminationcomplaintprocedures.pdf

All inquiries, complaints and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept as confidential as possible. No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Retaliation or harassment is unlawful and subject to disciplinary action.

All Commission employees are required to comply with this Policy. Employees are also expected to behave professionally and to exercise good judgment in work-related relationships, whether with fellow employees, business colleagues, or members of the public with whom they come into contact in the course of official duties. Furthermore, all employees are expected to take appropriate measures to prevent sexual harassment.

External Reporting Options

The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of sexual harassment under local, state or federal law. An employee has the right to file a complaint with any of the federal, state and local agencies listed below that enforce laws against discrimination. If the employee has also filed an internal complaint with the agency based on the same or related facts, the Commission's EEO officer will close out the internal complaint.

- *New York City Commission on Human Rights* - (212) 306-7560
- *New York State Division of Human Rights* - (718) 741-8400, (212) 961-8650, (718) 722-2856
- *United States Equal Employment Opportunity Commission* - (212) 336-3620

Sincerely,



Daniel D. Brownell
Commissioner and Chair

Appendix - 4

Business Integrity Commission
*Equal Employment Opportunity Policy, Standards and Procedures to
Be Utilized by City Agencies, City of New York*
2014



EQUAL EMPLOYMENT OPPORTUNITY

P O L I C Y

STANDARDS AND PROCEDURES
TO BE UTILIZED BY CITY AGENCIES

CITY OF NEW YORK

2014

EQUAL EMPLOYMENT OPPORTUNITY POLICY

STANDARDS AND PROCEDURES
TO BE UTILIZED BY CITY AGENCIES

CITY OF NEW YORK

BILL DE BLASIO
Mayor

LISETTE CAMILO
Commissioner
Department of Citywide Administrative Services

2014

**NEW YORK CITY
EQUAL EMPLOYMENT OPPORTUNITY POLICY**

TABLE OF CONTENTS

INTRODUCTION	1
I. EQUAL EMPLOYMENT OPPORTUNITY POLICY	2
A. Types of Prohibited Conduct	2
B. Applicability	3
II. SPECIFIC PROTECTIONS	4
A. Sexual Harassment	5
B. Disabilities	5
C. Religion	6
D. Retaliation	6
E. Domestic Violence, Sexual Offenses, or Stalking	7
III. PROCEDURES	7
A. Reporting Violations	7
B. Contact with the EEO Office	8
C. Withdrawing Complaints	9
D. Mediation	9
E. Concluding the Complaint Investigation	10
F. Other Places Where Complaints May Be Filed	10
G. Requests for Reasonable Accommodations	11
1. Disabilities	12
2. Religious Accommodations	12
3. Victims of Domestic Violence, Sexual Offenses, or Stalking	13
4. Pregnancy	13
H. Confidentiality	14
I. Documentation	14
J. Additional Sources of Procedural Information	15

IV.	AGENCY SPECIFIC DIVERSITY AND EEO PLANS	15-19
V.	ENFORCEMENT AND ACCOUNTABILITY STANDARDS	19
A.	Department of Citywide Administrative Services	19
B.	Agency Heads	20
C.	EEO Officers	22
D.	Agency General Counsels	22
E.	Managers and Supervisors	22
F.	Personnel Officers	23

NEW YORK CITY EQUAL EMPLOYMENT OPPORTUNITY POLICY (2014)

Introduction

The New York City Charter provides that each agency head must ensure that his or her agency does not discriminate against employees or applicants for employment in any manner prohibited by federal, state, and local law.¹ In addition, the Charter requires agency heads to establish measures, programs, and annual EEO Plans that communicate each agency's efforts to provide equal employment opportunity ("EEO") to City employees and applicants for employment within City government.² The Department of Citywide Administrative Services ("DCAS") is required to establish uniform procedures and standards to assist City agencies in establishing annual EEO Plans, and other measures and programs to ensure equal employment opportunity.³ DCAS developed this Policy,⁴ and the standards and procedures contained herein, to implement DCAS' and the City's obligations under the City Charter; federal, state, and local laws; and the City's diversity and inclusion strategy.

The *Equal Employment Opportunity Policy (2014)*, hereafter known as "Policy," supersedes the previous *Equal Employment Opportunity Policy (2005)* of the City of New York. Detailed uniform complaint and reasonable accommodation procedures are published separately. This Policy, any addenda to this Policy, and the EEO Policy Handbook are to be distributed to each agency head, EEO Officer,⁵ General Counsel, Agency Personnel Officer (APO), manager, and supervisor.

In addition to the Policy, DCAS updated the EEO Policy Handbook, "*About EEO: What You May Not Know*."⁶ The EEO Policy Handbook was created to provide City government employees with a user-friendly summary of the relevant laws and the Policy.

¹ See Charter Section 815(h).

² See Charter Section 815(a)(19).

³ See Charter Section 814(a)(12).

⁴ This Policy was drafted in consultation with the Equal Employment Practices Commission, the New York City Law Department and EEO Officers from various City agencies.

⁵ Each agency head appoints an EEO Officer to assist with the implementation of the Policy, standards, and procedures. The agency EEO Officer and other personnel, including EEO counselors, investigators, liaisons, etc., are referred to in this Policy as 'EEO office or EEO representatives.'

⁶ The Policy may be downloaded at <http://www.nyc.gov/html/dcas/html/about/ecopol>. The EEO Policy Handbook, "*About EEO: What You May Not Know*," may be downloaded at http://www.nyc.gov/html/dcas/html/about/eo_booklet.shtml.

I. Equal Employment Opportunity Policy

The City of New York is an equal opportunity employer and prohibits discriminatory employment actions against, and treatment of, City employees and applicants for employment based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including “gender identity” -- which refers to a person’s actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction,⁷ marital status, partnership status,⁸ genetic information or predisposing genetic characteristic,⁹ sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking,¹⁰ and unemployment status.¹¹

A. Types of Prohibited Conduct¹²

Decisions and practices based on an individual’s protected status (e.g., race, religion, age, and the other categories listed above) that unlawfully affect employment or the compensation, terms, conditions, or privileges of an individual’s employment or potential employment with the City of New York are prohibited by this Policy. This includes unlawful decisions, actions, and practices that occur in the course of recruitment, testing, hiring, work assignments, salary and benefits, working conditions, performance evaluations, promotions, training opportunities, career development and advancement, transfers, discipline, discharge, or any other application or selection process relating to employment.

⁷ Some employment actions motivated by the reasons listed are permitted by law, such as where an employer may deny employment on the basis of an applicant’s prior record of conviction, if there is a direct relationship between one or more of the applicant’s criminal offenses and the specific employment sought, or where employing the applicant poses an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. (*See* Correction Law, Art. 23-A, Section 752.)

⁸ “Partnership status” was added as a protected class under New York City’s Human Rights Law on October 3, 2005.

⁹ The term “predisposing genetic characteristic” was adopted on August 30, 2005 to streamline the terms “genetic predisposition” and “carrier status” in the previous version of the New York State Human Rights Law.

¹⁰ “Status as victim of sex offenses or stalking” was added as a protected class under the City Human Rights Law on December 22, 2003.

¹¹ “Unemployment status” was added as a protected class under New York City’s Human Rights Law on June 11, 2013.

¹² See also, EEO Policy Handbook: *“About EEO: What you May Not Know,”* for more examples of prohibited conduct.

The Policy also prohibits sexual harassment (i.e., conduct or language of a sexual nature) and harassment based on gender or any other protected characteristic (such as race, religion, disability, or sexual orientation). Forms of harassment may include, but are not limited to, the use of vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment.

The Policy prohibits conduct which unreasonably interferes with an employee's job performance or creates an intimidating, hostile, or offensive working environment, or creates an abusive working environment based on any protected characteristic.

Harassment and/or retaliation against a person who opposes or complains about prohibited conduct or participates in any way in the complaint, investigation, or reasonable accommodation processes are strictly prohibited.

The Policy also prohibits the denial of reasonable accommodations for disabilities; pregnancy, childbirth, and related medical conditions; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking that do not create an undue hardship.

Some offensive acts or remarks may violate this Policy even if they are not so severe that they violate federal, state, or local discrimination laws. The City and its agencies may discipline conduct that violates this Policy even if the conduct does not violate a law prohibiting discrimination.

The Policy also prohibits any City employee from aiding, abetting, inciting, compelling, or coercing any person present in a City facility, whether or not that person is an employee of the City, from engaging in any conduct prohibited by this Policy, including, but not limited to, conduct that creates a hostile work environment based on any protected characteristic.

B. Applicability

Everyone who works within New York City government or its workplaces, or who seeks employment within City government, is covered by federal, state, and local employment laws, and this Policy. This includes all current employees, managers (including executives and senior level staff members), supervisors, co-workers, paid and unpaid interns,¹³ and job applicants.

¹³ The prohibition of discrimination against interns was added in the New York City's Human Rights Law on April 15, 2014.

This Policy not only protects individuals from prohibited conduct because of their own protected status (such as their own actual or perceived race, religion, national origin, or disability), but also protects individuals from conduct motivated by the actual or perceived race, religion, national origin, or disability, etc., of other persons with whom they are associated. For example, this Policy applies to individuals who are subjected to adverse actions because of their marriage to, or domestic partnership or association with, persons of a particular racial, religious, or national origin group, or persons who have a disability. Moreover, discrimination based on an individual's name(s) or spouse's or domestic partner's name(s) that is associated with a particular racial, religious, or national origin group is prohibited.

These protections apply to actions, whether or not intentionally offensive or directed at a particular person or group, which violate this Policy.

This Policy extends to conduct which occurs at any location that could be reasonably regarded as an extension of the workplace, such as any field location, off-site business-related social function, City vehicle, or facility where City government business is being conducted and discussed.

In addition, Work Experience Program ("WEP") participants have a right to a workplace that is free of discrimination, including harassment based on race, color, national origin, religion, gender, disability, or age, and any basis that could otherwise be determined to be prohibited behavior pursuant to the Policy as applied to employees or applicants for employment.

All City employees, interns, and WEP participants are expected to be respectful of everyone in the City's workplaces and members of the public, and to be sensitive to the effects of their behavior on those around them. All employees, interns, and WEP participants must be trained in the requirements of this Policy and must receive a copy of the EEO Policy Handbook, *"About EEO: What You May Not Know."*

II. Specific Protections

The following sections are provided to enable individuals to understand the unique definitions, issues, rights, and responsibilities under this Policy pertaining to sexual harassment and discrimination based on disability, religion, retaliation, and status as a victim of domestic violence, sex offenses, or stalking.

A. Sexual Harassment

Sexual harassment is a form of employment discrimination which is prohibited by law. The federal government created guidelines which define sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.”¹⁴

Sexual harassment may involve individuals of the same or different gender(s). A broad range of behavior may be considered sexual harassment, including sexually suggestive remarks, pictures or gestures, verbal abuse or harassment of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching.

B. Disabilities

Discrimination against a person based on that person's actual or perceived disability, record of disability, or relationship with a person with a disability will not be tolerated by the City of New York. For the purpose of this Policy, a disability is: 1) a physical, medical, mental, or psychological impairment; 2) a history or record of such impairment; or 3) being regarded as having such impairment.

The City of New York and its agencies will take appropriate action to provide reasonable accommodations to qualified employees and job applicants with disabilities, unless providing such accommodations creates an undue hardship. Reasonable accommodations include the provision of equipment, changes in workplace policies and practices, and other forms of assistance that allow people with disabilities to apply for a position, perform their jobs, or enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

Whether an accommodation is reasonable will depend upon the circumstances of the particular request. Some examples of accommodations that may be reasonable include: making facilities physically accessible to, and usable by, persons with disabilities; job restructuring; modifying work schedules; providing or modifying equipment or devices; providing qualified readers, interpreters, auxiliary aids, and/or other support services; and providing leave and/or arranging for transfer or reassignment to a vacant position, if such transfer or reassignment does not violate

¹⁴ Code of Federal Regulations, Title 29, Section 1604.11.

the Civil Service Law, Personnel Rules and Regulations, other applicable laws, or regulations and/or collective bargaining agreements.

Undue hardship may exist when an accommodation is significantly difficult, unduly costly, extensive, substantial, disruptive, or would change the nature or operation of an agency's business.

The City of New York encourages employment of and promotional opportunities for qualified persons with disabilities. For example, pursuant to Section 55-a of the New York State Civil Service Law, where agency needs and availability permit, the City encourages agencies to utilize the 55-a Program, which will allow City agencies to employ qualified persons who have been certified as disabled in competitive positions on a non-competitive basis. Individuals who wish to apply for the 55-a Program are encouraged to seek assistance from the Agency Personnel Officer or 55-a Coordinator.

C. Religion

The Policy prohibits adverse employment actions based on a person's religion. This includes discriminatory practices and decisions, harassment, hostility, or other adverse actions because of a person's actual or perceived creed, religious affiliation, religious beliefs, observances, or practices.

In addition, depending on the circumstances, agencies must try to reasonably accommodate the religious observances, beliefs, or practices of an employee or job applicant, unless the accommodation creates an undue hardship. A reasonable accommodation for religion may be a change in a workplace rule or practice that allows an individual to respect his or her religious observances, beliefs, or practices. City agencies may be required to provide accommodations for religion such as flexible arrival and departure times, and/or leave; voluntary exchanges of shifts or assignments; time and/or place to pray; accommodations relating to appearance and dress; and modifying workplace practices, policies, and/or procedures.

City agencies are not required to provide accommodations that are too costly or difficult to provide, that would be disruptive, or would interfere with job performance.

D. Retaliation

It is a violation of the Policy to retaliate against or harass any person who asserts his or her rights regarding employment discrimination by: 1) opposing discriminatory practices in the workplace; 2) complaining about prohibited conduct;

or 3) participating in any way in the complaint, investigation, or reasonable accommodation processes. It is also a violation of this Policy to retaliate against or harass someone because of his or her association with such an individual.

Behaviors which may be considered retaliatory include, but are not limited to: threats, reprimands, negative evaluations, harassment, refusal to hire, denial of promotion or job benefits, demotion, suspension, discharge, negative references to prospective employers, or other actions affecting the terms, conditions, or privileges of employment.

Examples of behavior that are protected against retaliation under this Policy include, but are not limited to: expressing an intent to file a charge or complaint alleging prohibited conduct; participating as a witness in an EEO investigation, administrative proceeding, hearing, or trial; and/or seeking a reasonable accommodation.

E. Domestic Violence, Sex Offenses, or Stalking

The New York City Human Rights Law prohibits employment discrimination against persons who are victims of domestic violence, or victims of sex offenses or stalking, as defined by that law and the New York State Penal Law. Agencies shall provide reasonable accommodations that do not create undue hardship and that enable such persons to satisfy the essential requisites of a job, provided that the status as a victim of domestic violence or victim of sex offenses or stalking is known, or should have been known, by the agency.

III. Procedures

A. Reporting Violations

Anyone who believes that he or she has been subjected to any action, decision, or harassment in violation of this Policy, or who witnesses others being subjected to improper conduct, is urged to promptly report the incident(s) to his or her supervisor or manager; to agency personnel supervising the application, testing, and interviewing process; or directly to the EEO office at the agency where the violation actually occurred, or which is the employer of the individual who purportedly committed the complained of act(s). Supervisors, managers, or human resources personnel who receive EEO complaints, or otherwise become aware of any improper discrimination, must notify the agency EEO Officer. Supervisors and managers should also encourage individuals who believe that the Policy has been violated to consult with the EEO office.

An individual who believes that this Policy has been violated may report the incident orally or in writing. Where the report is taken orally, the manager, supervisor, or EEO representative shall document the report. The EEO office will assist any individual in determining whether the conduct or decision reported is appropriate for the complaint process. Where an individual chooses to file an internal complaint with the agency EEO office, that complaint must be filed within one year of the event which is the subject of the complaint.

Persons who wish to discuss a possible violation of this Policy without revealing their identity may do so by telephoning or writing the EEO office. In such cases, the EEO office will provide counseling and take such follow-up action as may be appropriate and possible, given the restraints of anonymity.

If any employee knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

B. Contact with the EEO Office

An employee has a right to meet privately with an EEO representative. Such a meeting may take place either during or outside of office hours. If an employee makes a request to meet with an EEO representative during office hours, the employee should obtain approval from a manager or supervisor in order to leave his or her work assignment. An employee need not disclose the purpose for or details of the meeting with an EEO representative. Reasonable leave requests to meet with an EEO representative during work hours cannot be denied by managers or supervisors. Managers and supervisors shall allow employees to meet with EEO representatives at the earliest practicable time consistent with the operational needs of their units. Where an agency has more than one EEO representative, an employee is not required to meet with an EEO representative who works in the employee's division.

At the employee's request, arrangements may also be made to hold the meeting before or after office hours, or during the employee's lunch period. Should such a meeting take place entirely on the employee's own time, he or she need not advise a manager or supervisor of the meeting, or obtain the consent or approval of a manager or supervisor. The EEO representative will arrange to meet with an employee at outside premises where appropriate and/or necessary in order to ensure confidentiality. If necessary, EEO representatives will make arrangements for sign language interpreters and other forms of effective communication with persons with disabilities.

The EEO representative will discuss and research appropriate options, including actions an individual could take on his or her own behalf, referrals to other offices and/or agencies, mediation, investigation, and/or interim relief. The EEO representative may also facilitate any further discussions with other agency personnel.

In appropriate cases, an EEO investigation may be conducted in conjunction with or by an agency's General Counsel's office, Inspector General, or disciplinary officer. In addition, there may be exceptional circumstances under which an investigation may be conducted by another individual or entity, as deemed appropriate by the Law Department or DCAS.

Any person who is interviewed during the course of an EEO investigation has a right to be accompanied by a representative of his or her choice. This includes individuals who make complaints, persons against whom complaints were made, or witnesses. It is preferable that the EEO office receive advance notice that the person who is being interviewed will be bringing a representative.

Any person who is the subject of the complaint will have an opportunity to respond in writing.

All employees are expected to cooperate with EEO investigations. Failure to cooperate in an investigation may result in disciplinary action.

C. Withdrawing Complaints

A complaint of discrimination may be withdrawn at any time by the person who filed the complaint. Withdrawal of a complaint must be made or confirmed in writing. In some instances, the agency EEO Officer will find it appropriate to end the investigation when the complaint is withdrawn. Prior to ending the investigation, the EEO Officer must determine whether the agency should take corrective action to address inappropriate conduct. If the EEO Officer determines that corrective action is required, it may be necessary for the EEO Officer to continue the investigation or recommend action to remedy inappropriate behavior.

D. Mediation

Mediation is a voluntary, informal, and confidential process that provides an opportunity for everyone involved in a complaint to come to a mutual agreement about how the complaint should be resolved. It is an alternative that may quickly resolve complaints without a full investigation.

All requests for mediation should be made to the EEO Officer. Mediation may be requested by any party involved and may be declined by any party.

The EEO Officer will determine whether the complaint is appropriate for mediation. The EEO Officer may choose to conduct the mediation internally within the agency, or externally through entities that provide mediation services.

Mediation may be terminated by any party to the mediation. If this occurs, the EEO Officer will inform the other party or parties in writing that the mediation has been terminated. In the event that mediation does not result in a resolution, the EEO Officer will provide the parties with a written statement informing the parties of the complainant's right to an investigation of the allegation. Where efforts to mediate complaints are unsuccessful, complaints will be investigated by the EEO office.

E. Concluding the Complaint Investigation

The EEO Officer will submit a confidential report of the complaint investigation to the agency head at the conclusion of the investigation. If the EEO Officer concludes that a violation of this Policy has occurred, the EEO Officer will recommend appropriate corrective action. The agency head will review the EEO Officer's report and promptly issue a determination adopting, rejecting or modifying the recommended action. Such determination shall be in writing and may be issued electronically. The EEO Officer will advise all parties in writing of the outcome of a complaint.

Any person found to have engaged in conduct or practices in violation of this Policy may be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, or any other measures permitted by law and/or collective bargaining agreements. In addition to implementing such disciplinary action, agencies may take such steps as may be necessary to address the impact that any violation of this Policy has had on the complainant or within the agency.

F. Other Places Where Complaints May Be Filed

The following federal, state, and local agencies enforce laws against discrimination:

- New York City Commission on Human Rights:
<http://www.nyc.gov/html/cchr/html/home/home.shtml>
- New York State Division of Human Rights: <http://www.dhr.ny.gov/>

- United States Equal Employment Opportunity Commission (the “EEOC”): <http://www.eeoc.gov>
- United States Department of Justice: <http://www.justice.gov/>

Information about how to contact these agencies can be found in the EEO Policy Handbook, “*About EEO: What You May Not Know*,” at http://www.nyc.gov/html/dcas/html/about/eeo_booklet.shtml, the DCAS website at <http://www.nyc.gov/html/dcas/html/about/eeo.shtml>, or the Office of Citywide Diversity and EEO at 1 Centre Street, 17th Floor North, New York, NY 10007, (212) 386-0257. Please note that there are statutory deadlines for filing complaints with each of these agencies.¹⁵

When a person exercises his or her right to file a complaint with a federal, state, or local administrative agency (known as an “external complaint”) based on or related to the same facts and circumstances of an internal complaint, the agency EEO Officer will transfer the matter to the agency General Counsel, who will be responsible for any further handling of the matter. The EEO Officer will notify the complainant and the parties who are the subject of the complaint, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint. The agency General Counsel will be responsible for handling external complaints regardless of the timing of such complaints (whether filed before the internal complaint is filed, at the same time that the internal claim was filed, or after the internal complaint was filed). After transfer of the complaint to the agency General Counsel, the EEO Officer will cooperate with the General Counsel with respect to the ultimate resolution of the complaint.

G. Requests for Reasonable Accommodations

City agencies may be required to provide reasonable accommodations when requests are made in connection with disabilities; pregnancy, childbirth, and related medical conditions; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking. The reasonable accommodation process should be flexible and interactive, involving agency representatives who are necessary to the reasonable accommodation process and the individual who is requesting a reasonable accommodation. In all instances, the agency EEO office should be notified of the request in order to facilitate discussions, research appropriate accommodations, and assist in the resolution of the matter.

¹⁵ The deadline in some instances is as short as 180 days. Therefore, to preserve their rights, individuals who believe that they have been discriminated against and wish to file a complaint with an external agency should promptly contact the City Commission on Human Rights, the State Division of Human Rights, the EEOC, the Department of Justice, or a private attorney for further guidance.

EEO representatives, agency personnel supervising any phase of the application process, and/or managers and supervisors involved in the process shall notify individuals who request reasonable accommodations whether the request has been granted. Where the specific accommodation requested is impracticable, agency representatives will seek to implement an appropriate alternative reasonable accommodation. The following procedures detail the specific aspects of each type of request.

1) Disabilities: An employee or job applicant with a disability who requests reasonable accommodations to enable him or her to satisfy the essential functions of the job or enjoy the rights in question may make such requests to his or her manager or supervisor, agency personnel supervising the application process, or directly to the agency EEO Officer or Disabilities Rights Coordinator.¹⁶ A request for a reasonable accommodation may be made orally or in writing. Where the request is made orally, it shall be documented by that person who receives the request.

EEO Officers and/or Disabilities Rights Coordinators, agency personnel supervising the application process, and managers and supervisors involved in the process shall provide reasonable assistance (such as help in completing forms) to an individual requesting an accommodation. Additionally, if a reasonable accommodation is requested to facilitate an individual's ability to apply for employment, the agency staff supervising the application procedures may be required to assist the applicant in completing the application process.

By law, all documentation and information concerning the medical condition or history of an individual requesting a reasonable accommodation for a disability must be collected and maintained on separate forms, and in separate medical files, apart from other personnel data. Such information must be treated as confidential medical records, except that managers and supervisors may be informed of necessary restrictions on work and accommodations required. Furthermore, medical information may be provided: 1) to first-aid and safety personnel, if the disability might require emergency treatment; 2) to government officials investigating the agency's compliance with applicable laws; 3) to workers' compensation offices in accordance with Workers' Compensation Law; and 4) for insurance purposes.

2) Religious Accommodations: An employee or applicant requesting reasonable accommodations for religion may make such requests to his or her manager or supervisor, agency personnel supervising the application process, or directly to the agency EEO Officer. Requests for religious accommodation should be documented by the individual receiving the request.

¹⁶ A Disability Rights Coordinator is responsible for ensuring compliance with federal, state, and local laws and the Policy regarding people with disabilities.

3) Victim of Domestic Violence, Sex Offenses, or Stalking: An employee or applicant requesting reasonable accommodations for domestic violence, sex offenses or stalking may make such requests to his or her manager or supervisor, agency personnel supervising the application process, or directly to the agency EEO Officer.

Agencies may require a person requesting a reasonable accommodation to provide certification that the person is a victim of domestic violence, sex offenses, or stalking. The person requesting the reasonable accommodation shall provide a copy of such certification to the agency within a reasonable period after the request is made. A person may satisfy the certification requirement by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider from whom the individual seeking a reasonable accommodation, or that individual's family or household member, has sought assistance in addressing domestic violence, sex offenses, or stalking and the effects of the violence or stalking; a police or court record; or other information consistent with the disclosure and the request for accommodation.

4) Pregnancy:¹⁷ An employee or job applicant requesting reasonable accommodations due to pregnancy and those who suffer medical conditions related to pregnancy, childbirth, or a related medical condition may make such requests to her manager or supervisor, agency personnel supervising the application process, or directly to the agency EEO Officer or Disability Rights Coordinator. Such a reasonable accommodation may include bathroom breaks; leave for a period of disability arising from pregnancy, childbirth, or related medical conditions; breaks to facilitate increased water intake; periodic rest for those who stand for long periods of time; and assistance with manual labor, among other things.

All information, including a statement of the person requesting a reasonable accommodation or any other documentation, record, and the fact that the individual has requested or obtained a reasonable accommodation, shall be retained in the strictest confidence by City agencies, except to the extent that disclosure is requested or consented to in writing by the person requesting the reasonable accommodation, or is otherwise required by applicable federal, state, or local law.

Where an employee or job applicant has requested a reasonable accommodation consistent with these procedures and the agency representative has not provided the reasonable accommodation, an appeal may be made to the agency head. Within 10 business days of receipt of an appeal, the agency head, or his or her designee, shall:

¹⁷ The City's Human Rights Law was amended to include reasonable accommodations related to pregnancy, childbirth or related medical conditions effective January 30, 2014.

1. obtain the request for reasonable accommodation made by the employee or applicant and review all related documentation, standards, procedures, and potential accommodations;
2. meet and/or consult with the employee or applicant, the EEO Officer, and any agency representative that the agency head deems necessary to the reasonable accommodation request;
3. evaluate the reasonableness of employee's or applicant's and agency representative's preferences regarding the accommodation request, giving primary consideration to the employee's or applicant's preferences; and
4. consult with the DCAS Office of Citywide Diversity and EEO or the Law Department.

Within 15 business days of receipt of the appeal, the agency head or his\her designee, shall issue a written determination on the request for reasonable accommodation, specifying what accommodation shall be provided, if any, and, where necessary, directing the appropriate agency representative to implement such accommodation promptly. The EEO Officer or Disability Rights Coordinator shall monitor implementation of the reasonable accommodation.

G. Confidentiality

All complaints, investigations, requests for accommodations, and records will be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. EEO matters may be discussed with other persons who may have information about a complaint or who are necessary to implement reasonable accommodations for disability, religion, status as victims of domestic violence, sex offenses or stalking, and pregnancy, childbirth, or a related medical condition. Therefore, it may be necessary to disclose information to persons with a legitimate need to know about the matter.

H. Documentation

All inquiries, complaints, requests, mediation efforts, investigations, requests for accommodation, and their outcomes will be documented by the EEO office.

J. Additional Sources of Procedural Information

The Guidelines for the Implementation of the City's Discrimination Complaint Procedures may be found online:

http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo_discriminationcomplaint_procedures.pdf

The City's Reasonable Accommodation Policy and Procedure may be found online:

http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo_reasonableaccommodation.pdf

IV. Agency-Specific Diversity and EEO Plans

Agency heads are required by the New York City Charter to annually prepare, adopt, and implement a plan to provide equal employment opportunity. The plan must be prepared based on uniform procedures and standards provided by DCAS. DCAS will work with agency heads to help them develop realistic and achievable objectives.

Each agency head or, at his or her direction, the agency EEO Officer and/or APO, should review agency statistical information (including total employment and new hires and promotions, by race/ethnicity, and gender), EEO complaints made during the previous fiscal year and the agency's employment practices, policies, and programs. The agency head should then work with the EEO Officer, General Counsel and APO to identify: 1) whether there are any barriers to equal opportunity within the agency; 2) the agency's obligations as a result of government grants and/or contracts; and 3) what, if any, corrective actions are required under court decrees and/or governmental audits. Agencies may wish to seek the advice of the Law Department or consult with the DCAS Office of Citywide Diversity and EEO regarding the development of agency Diversity and EEO Plans.

The Diversity and EEO Plan should communicate the agency's intention to promote equal employment opportunity and diversity and inclusion by continuing effective measures or implementing new strategies and programs (i.e., preventive, corrective and risk management strategies in areas such as recruitment, training, selection, promotion, and policy dissemination standards) that prevent, diminish, or eliminate barriers to equal opportunity employment. DCAS will provide agencies with formats and recommendations for Diversity and EEO Plan development that are consistent with employment practices recommended by human resources management organizations and enforcement entities.

Although each agency's Diversity and EEO Plan will be tailored to the specific issues of that agency, there are some general measures that all agencies are required to implement. Each agency's Diversity and EEO Plan must, at a minimum, include the following:

- A commitment to ensure fair employment practices, and promote a workplace that values its employees in support of the City's diversity and inclusion strategy. The commitment will hold EEO Officers and representatives, human resources professionals, managers and supervisors accountable for ensuring that the agency does not discriminate against employees or applicants for employment and support the diversity and inclusion initiatives at the agency. This commitment should be reflected in the agency strategic plan, mission, vision, and performance metrics. It should also include the agency's strategy to ensure equal employment opportunity and to implement the best diversity and inclusion practices at the agency. The commitment should also be communicated to all employees through a Commitment Statement to affirm the principles of equal employment opportunity and diversity and inclusion.
- A commitment to assess recruitment efforts to determine whether such efforts adversely impact any particular group and what recruitment sources yield a diverse pool of qualified candidates. It should also include the agency's strategy to implement the best diversity and inclusion recruitment practices to ensure equal employment opportunity. Minimally, agencies should identify relevant professional and community organizations serving women and minorities throughout the City, review and update listings of recruitment outreach sources, and contact such organizations when positions not filled through civil service lists become available or where agencies may otherwise use discretion in hiring.
- A commitment to assess agency job postings to ensure appropriate diversity, inclusion, and equal opportunity employer messaging.
- A commitment to 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, the agency head will determine whether the criteria being utilized are job-related. If the criteria are not job-related, the agency will discontinue using that method. Methods which diminish adverse impact will be preferred over those with greater impact, provided that the agency's job-related aims are not compromised by using the method with a diminished impact. Examples of selection methods which may diminish adverse impact include race/ethnicity-neutral and gender-neutral questions in interview materials and assembling interview panels that reflect gender, race and ethnic diversity. The agency will also ensure that, to the extent practicable, agency

personnel involved in both the discretionary and the civil service hiring pool process receive structured interviewing training and use structured interviewing in the selection process.

- A commitment to assess criteria for selecting persons for mid-level to high-level discretionary positions.
- A commitment to make career counseling about civil service jobs available for employees. Employees should be reminded of the identity of the agency's Career Counselor and the type of guidance which is available from the Career Counselor, at least once each fiscal year. Each agency should promptly notify agency employees and DCAS of any change in the identity of the agency Career Counselor.
- A commitment to ensure that all new employees are advised of this Policy, their rights and responsibilities under it, the discrimination complaint and investigation procedures, and the reasonable accommodation procedures.
- A commitment to establish a diversity, inclusion, and EEO training plan to ensure that all individuals who work within the agency, including managers and supervisors, are trained concerning diversity, inclusion, and EEO-related rights and responsibilities in a manner consistent with the minimum standards for diversity, inclusion and EEO training established by DCAS.
- A commitment to review on a regular basis and retain information about personnel actions, discretionary hiring, applicants, promotions, demotions, transfers, rates of pay, terms of compensation, and selection for training or apprenticeship as required by federal, state, and local law, and/or the City's official records retention schedule.
- A plan to meet obligations or remedies required or recommended as a result of government grants or contracts, court orders, consent decrees, or any audit/review conducted by a governmental agency.

Other measures which may be used to ensure fair employment practices include, for example:

- Advertising job vacancy notices in periodicals and websites with a diverse and inclusive readership.
- Sending job vacancy notices to professional and community organizations serving diverse and inclusive populations.

- Participating in career and job fairs.
- Whenever possible, promoting public service as a career choice at schools, colleges and universities.
- Using internships, work/study, co-op, and scholarship programs to attract interested persons and to develop and hire interested and qualified candidates.
- Sponsoring open houses (i.e., networking events, facilities tours).
- Working with appropriate DCAS personnel to 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.
- Reviewing application forms and agency materials and products in order to ensure that they do not contain discriminatory language or images.
- Ensuring that human resources personnel, managers, supervisors, and other personnel involved in the recruitment and hiring process are trained in interviewing, selection, hiring skills, and EEO, to enable such individuals to correctly identify the most capable candidates.
- Implementing and encouraging inclusive skills and behavior standards for managers to ensure that they are able to maximize their professionalism, performance and communication skills.
- Conducting or encouraging the use of training and development programs to improve skills, performance, and career opportunities of all employees.
- Creating talent pools through employee surveys and databases, to promote cross-training, mentoring, coaching, stretch assignments, cross divisional assignments, job transfers, and rotation programs for career enhancement and development experiences.
- Planning and administering employee incentives, quality of work life and recognition programs, engagement surveys, performance evaluations, employee resource groups, and diversity councils.
- Promoting employees' awareness of opportunities for promotion and transfer within the agency, publicizing promotions and changes in the managerial ranks, and ensuring that the agency engage in succession planning for top managerial

positions. The agency considers its own employees for such opportunities by having programs that identify ready now and high potential talents.

The City of New York, through DCAS, will also:

- Provide the uniform procedures, formats, and reports required by the New York City Charter to facilitate the planning and review of the City's efforts to provide equal employment opportunity for employees and applicants for City government employment.
- Assess qualifications required for most civil service positions and ensure that civil service examinations are job-related and consistent with business necessity.
- Provide assistance to agencies to ensure that recruitment efforts fit particular human resource needs.
- Encourage agency job postings internally through City Jobs and externally through the City's website: <http://www1.nyc.gov/jobs/>
- Continue to conduct on-site EEO monitoring visits to agencies.
- Continue efforts to better ensure the accuracy of ethnicity and gender data.

V. Enforcement and Accountability Standards

A. Department of Citywide Administrative Services

DCAS is required to: 1) establish and enforce uniform procedures and standards for use by City agencies in establishing measures, programs, and plans to ensure equal employment opportunity, including a time schedule for the development, review and adoption of EEO plans; 2) establish a uniform format for use by City agencies for the presentation of statistical information on the workforce of City agencies; and 3) develop resources regarding information on employment and educational programs.¹⁸ DCAS is also required to publish and submit annual reports on the activities of DCAS and the other City agencies with respect to equal employment opportunity.¹⁹

¹⁸ See Charter Sections 814(a)(12)-(15).

¹⁹ See Charter Section 814(b)(8).

Within DCAS, the Office of Citywide Diversity and EEO assists the Commissioner to develop and enforce the Policy, standards, and procedures. The Office of Citywide Diversity and EEO will assist City agencies by developing or collaborating on solutions, strategies and initiatives to effectively implement the provisions of the City Charter and other federal, state, and local laws, and monitoring the EEO-related activities of City agencies. In addition, DCAS maintains the data that is necessary in order to fulfill the City's EEO obligations under the City Charter and other federal, state and local laws.

B. Agency Heads

Each agency head will ensure that his or her agency does not discriminate against employees or applicants for employment as prohibited by federal, state and local laws.²⁰ Agency heads are accountable to their respective Deputy Mayors for their agencies' EEO practices. Agency heads will also ensure that legal, human resources, and EEO personnel, managers, and supervisors: 1) receive a copy of this Policy (including any addenda); 2) are trained in EEO laws and procedures; and 3) know how to carry out their responsibilities under this Policy. Agency heads must distribute a copy of the EEO Policy Handbook, "*About EEO: What You May Not Know*" to all employees and ensure that a copy is available on the agency's website.

As discussed in Section IV, each agency head must annually adopt and implement a Diversity and EEO Plan that communicates measures and programs that the agency will undertake to ensure fair and effective efforts to provide equal employment opportunity. Draft Diversity and EEO Plans are to be developed and submitted each fiscal year according to the timetable and format established by DCAS, and must be reviewed and approved by DCAS. Agencies are required to file copies of finalized agency Diversity and EEO Plans with the Mayor, the City Council, the Equal Employment Practices Commission ("EEPC"), and the City Civil Service Commission, and to also make Diversity and EEO Plans available for reasonable public inspection.²¹

Each agency head will then submit quarterly reports to DCAS, as well as to the Mayor, City Council, and EEPC, on the agency's efforts during the previous quarter to implement the agency Diversity and EEO Plan. Such quarterly reports will also include a review and documentation of EEO complaints and requests for reasonable accommodations for said quarter. Quarterly Diversity and EEO reports must, pursuant to the City Charter, be timely submitted to DCAS and the other entities mentioned above, no later than thirty (30) days following the reporting period using the reporting format provided by DCAS.

²⁰ See Charter Section 815(h).

²¹ See Charter Section 815(a)(19).

In order to meet the City's obligations under the City Charter and other federal, state and local laws, and to achieve the goals of the agency Diversity and EEO Plan, each agency head must appoint a trained EEO Officer whose responsibility it will be to implement the Policy within that agency. Because EEO Officers will need independence of judgment as well as the authority of the agency head in order to carry out their responsibilities, the EEO Officer must report directly to the agency head, or if approved by DCAS, to a direct report to the agency head. In order to avoid potential conflicts of interest, under no circumstances should the EEO Officer report to the General Counsel. Where the agency's organizational structure necessitates multiple EEO representatives, such individuals should be selected from different office locations and, where possible, from a variety of levels within the organizational structure. The agency head must ensure that the responsibilities of the EEO Officer are competently discharged.

Agency heads should appoint at least two EEO representatives, who may not be of the same gender, to receive discrimination complaints and conduct investigations. Each agency head must designate a Career Counselor with appropriate training and knowledge, who is familiar with civil service jobs, to provide career counseling to employees who request such guidance. The agency head should also designate a Disabilities Rights Coordinator, whose responsibility it will be to ensure compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities. Usually the EEO Officer of each agency should serve as the Disabilities Rights Coordinator; however, when circumstances warrant, an agency head may designate another person to serve as the Disabilities Rights Coordinator.

Agency heads are required to sign off on all agency Diversity and EEO Plans and final determinations concerning EEO complaint resolutions and should conduct a quarterly review of EEO complaints and requests for accommodations. Such sign off may be in written or electronic form. Each agency head will ensure that all employees are provided with information that complies with the standards provided by DCAS regarding employee rights and obligations contained within this Policy, and with information about the complaint, investigation and reasonable accommodation procedures. The agency head will also ensure that the Policy, standards, and procedures are posted at each site where the agency conducts business. Such posting may include postings on electronic bulletin boards and intranet sites. Each agency head will ensure that each of the agency's employees is accountable for his or her compliance with EEO-related policies, and receives training in EEO laws.

Agency heads should ensure that information regarding employee rights and obligations, and the complaint, investigation, and reasonable accommodation procedures are available in appropriate alternative formats to employees and job applicants with disabilities.

C. EEO Officers

The agency's EEO Officer has primary responsibility for assisting the agency head in implementing the Policy, standards, and procedures. Specifically, the agency's EEO Officer must be knowledgeable regarding EEO laws, the requirements of the Policy, standards, and procedures, and how to prevent, investigate, and resolve discrimination complaints. The EEO Officer and/or Disability Rights Coordinator will also receive requests for accommodations, and recommend appropriate action to the agency head regarding EEO-related issues. The EEO Officer will also provide guidance to the agency head in submitting the agency's annual Diversity and EEO Plan and in preparing and reviewing quarterly reports. The EEO Officer should work closely and cooperatively with the agency's General Counsel and the DCAS Office of Citywide Diversity and EEO, and provide guidance and assistance to agency managers, supervisors, and human resource professionals in addressing issues relating to equal employment opportunity.

The EEO Officer will also: 1) set training objectives that ensure that all agency employees receive diversity and inclusion and EEO training; 2) supervise the EEO-related activities of EEO counselors and/or investigators; 3) ensure that the Policy, standards, and procedures are posted at each site where the agency conducts business; and 4) ensure that the Policy, standards, and procedures are available in alternative formats (i.e., large print, audio tape, and/or Braille). Each agency's EEO Officer shall make a copy of these standards and procedures, and any subsequent revisions and supplemental materials, available upon request by an employee or applicant.

D. Agency General Counsels

Agency General Counsels should: 1) assist the agency head in identifying and determining appropriate responses to EEO issues; 2) work cooperatively and closely with the EEO Officer in the implementation of the Policy, standards, and procedures; 3) inform the EEO Officer when external complaints or litigation involving EEO matters are brought against the agency; 4) be available to consult on internal EEO investigations; and 5) be responsible for the investigation of, and response to, external EEO complaints.

E. Managers and Supervisors

Managers and supervisors will make every effort to maintain a work environment that fosters sensitivity and respect for the diversity of all individuals. Specifically, each agency manager or supervisor shall: 1) be accountable to the agency head for effectively implementing EEO-related policies; 2) perform managerial or

supervisory responsibilities in a non-discriminatory manner; 3) receive training in EEO laws; 4) cooperate with the EEO Officer in the implementation of the Policy, standards, and procedures (including training, complaint resolutions, processing, recording, and reporting reasonable accommodation requests, EEO-related recruitment, and selection standards; and modifying agency procedures to ensure equal employment opportunity for applicants and employees); 5) promptly consult with the agency's EEO Officer if he or she observes, learns about, or suspects that a violation of this Policy has occurred; 6) where appropriate, encourage subordinates to consult with an EEO office; 7) allow employees to meet with EEO representatives at the earliest practical time consistent with the operational needs of his or her unit; and 8) maintain confidentiality with respect to EEO-related matters.

F. Personnel Officers

Personnel Officers have primary responsibility for assisting the agency head in implementing the City's personnel policies and shall be knowledgeable regarding the interplay of EEO-related laws and other work-related legal regulations including Family Medical Leave Act, New York State Civil Service Law, and Workers' Compensation Law. Personnel Officers should cooperate with EEO Officers in the implementation of the Policy, standards, and procedures including training objectives, complaint resolutions, and modifying agency procedures to ensure equal employment opportunity for applicants and employees.

Personnel Officers will also: 1) ensure that employees know the identity of the agency Career Counselor and ensure that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; 2) ensure that all new employees are advised of the Policy, standards, and procedures, the employees' rights and responsibilities under such policies, and the discrimination complaint procedures; 3) inform the EEO Officer on a quarterly basis of the number of 55-a Program participants and efforts that the agency has made to employ, promote, or accommodate qualified individuals with disabilities; 4) involve the agency EEO Officer in the review of EEO-related decisions, actions, and practices; and 5) promptly consult with the agency's EEO Officer if he or she knows, has been informed of, or suspects that a violation of this Policy has occurred.

Appendix - 5

Business Integrity Commission
EEO Complaint Procedural Guidelines, City of New York
2016

EEO Complaint Procedural Guidelines

City of New York

2016



Department of Citywide Administrative Services

Table of Contents

- A. Overview 1
- B. The EEO Complaint Process *at a Glance* 2
- C. The Intake Phase 3
- D. Mediation 6
- E. Investigation 7
- F. Preparing the Final Report 11
- G. Appendices 12

THE CITY OF NEW YORK
EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT
PROCEDURAL GUIDELINES

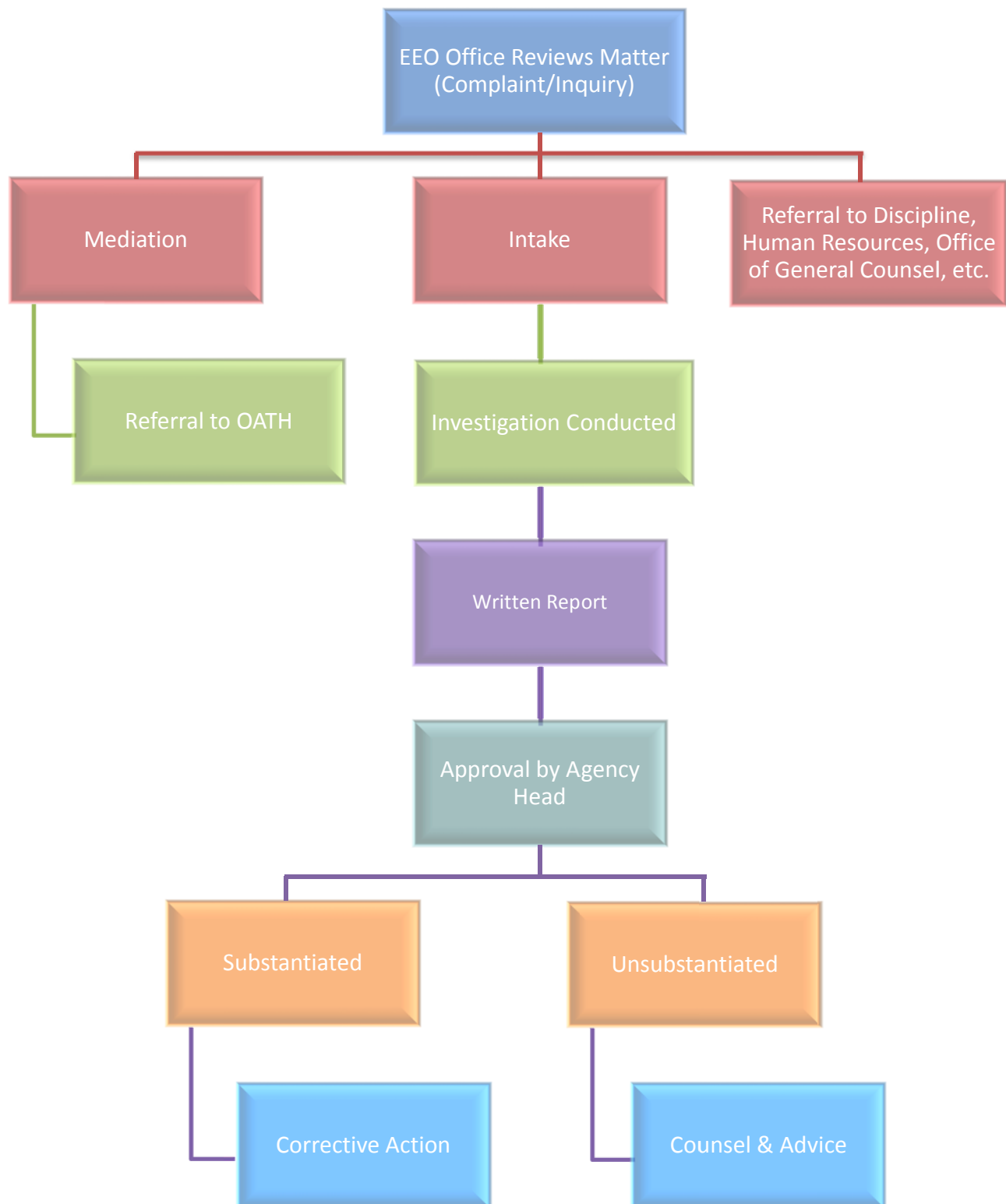
Overview

These Equal Employment Opportunity Complaint Procedural Guidelines (the “Guidelines”) are designed to assist Equal Employment Opportunity (“EEO”) Officers, Investigators and Counselors in handling EEO complaints and inquiries in a fair, consistent, and timely manner. A person who wishes to make an EEO complaint, or who inquiries about a possible EEO complaint, should be referred to the City’s EEO Policy (the “Policy”) and the “About EEO: What You May Not Know” Handbook (the “Handbook”).¹

As provided in the Policy, the City prohibits discriminatory employment actions against, and treatment of, City employees and applicants for employment based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including “gender identity” --which refers to a person’s actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, and unemployment status. Harassment and/or retaliation against a person who opposes or complains about prohibited conduct or participates in any way in the complaint, investigation, or reasonable accommodation processes are also prohibited. The Policy also prohibits the denial of reasonable accommodations for disabilities; pregnancy, childbirth, and related medical conditions; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking that do not create an undue hardship. Persons who claim discrimination in violation of the Policy may file a complaint within one year of the alleged discriminatory incident, with the EEO Office at the City agency where the incident occurred (“internal complaint”) or with a Civil Rights enforcement agency, subject to its filing requirements (“external complaint”).

¹The EEO Policy is available at <http://www.nyc.gov/html/dcas/html/about/eeopol.shtml>. The EEO handbook is available at http://www.nyc.gov/html/dcas/html/about/eoo_booklet.shtml.

The EEO Complaint Process *at a Glance*



THE INTAKE PHASE

The EEO complaint or inquiry process begins when a person (the “Complainant”) contacts the EEO Office regarding an alleged discriminatory incident.

The person making the complaint may do so anonymously, if he or she so chooses. Anonymous complaints must be treated the same as identified complaints, to the extent possible.

A complaint may be filed by an employee a former employee, independent contractor, a consultant, a volunteer, an intern, a WEP worker, or an applicant for City employment.

A complaint may be filed on the Complainant’s own behalf or on behalf of someone else.

Supervisors and managers are required under the Policy to timely notify their EEO Office of any alleged discriminatory conduct they observe or become aware of.

Upon receiving an EEO complaint or inquiry, the EEO Office must memorialize the complaint or inquiry and enter it into the complaint tracking system,² as well as schedule, by email or letter, an intake session with Complainant, if known, for purposes of assessing or confirming the following:

- Is the complaint timely?
 - Determine when the alleged discriminatory conduct occurred. A complaint must be filed within one year of the date the alleged discriminatory conduct occurred.
 - While a Complainant may not be able to file a complaint and obtain specific relief sought if the complaint is untimely, the EEO Office may conduct an investigation and may make recommendations to address inappropriate conduct.
- Has Complainant previously filed a lawsuit or complaint with an enforcement agency regarding the same claims of discrimination? If so, the matter must be transferred to the agency’s Office of General Counsel.
 - If an external complaint or lawsuit is filed subsequent to the filing of the internal complaint, the matter must also be transferred to the agency’s Office of General Counsel. The EEO Office must notify Complainant (and Respondent³, if any) in writing of the transfer.
 - If the Complainant alleges retaliation after filing the external complaint, the retaliation complaint must also be transferred to the Office of General Counsel.
 - If a subsequent complaint involves allegations unrelated to the initial external complaint, the EEO Office may retain and investigate the subsequent complaint as a separate complaint. The EEO Office must consult with the Office of General Counsel in determining whether the

² The complaint tracking system is available at <https://mspwwa-dcslnx01.csc.nycnet/Login.aspx>.

³ The Respondent is the person or entity alleged to have engaged in the discriminatory conduct.

subsequent complaint involves separate allegations.

- ☑ Has Complainant previously raised the same issues with others at the agency?
 - Did Complainant discuss the alleged discriminatory conduct with a supervisor/manager, Human Resources, or co-workers?
 - Has Complainant filed a grievance with his or her union regarding the same conduct, practice or policy?
- ☑ Does the complaint or inquiry raise one or more of the protected categories under the City's Policy, including when discrimination is based on perception or association (see the Handbook, pages 8-10, for definitions of the protected categories)?
 - If the complaint or inquiry does not raise an EEO basis, the EEO Office should make a referral, as appropriate.
- ☑ If the complaint or inquiry raises an EEO basis, what specific conduct, practice or policy is the person alleging violates the Policy? The issues raised could involve one or more of the following issues:
 - Harassment, including, but not limited to "the use of vulgar language, abusive acts or language, hostility, physical aggression, intimidation or unequal treatment" based on any of the protected categories (see the City's EEO Policy, page 3).
 - Adverse employment actions, such as negative performance evaluation or denial of promotion or benefits, allegedly based on one or more protected categories as shown by, for example, discriminatory comments or different treatment of other employees who are similarly situated.
 - Failure to reasonably accommodate disability, pregnancy, childbirth and related medical condition, religion/religious observance, victims of domestic violence, sex offenses or stalking.
 - Retaliation due to opposition or complaining about discrimination or participating in the complaint, investigation or reasonable accommodation process. Retaliatory conduct includes conduct reasonably likely to dissuade a person from engaging in protected activity.
 - Policy alleged to have a discriminatory impact on a protected category that is not job-related or justified by business necessity.
- ☑ What is Complainant's status with the agency?
 - Does Complainant work at the agency?
 - What is Complainant's civil service status?
 - Is Complainant an employee of the agency or different agency or an independent contractor?
 - The EEO Office must contact the EEO Office of the employing agency and coordinate the investigation.
- ☑ Which person(s), if any, is alleged to have engaged in the discriminatory conduct (the "Respondent")?
 - Complaints against the EEO Officer and agency heads should be referred to the City's Law Department or Department of Citywide Administrative Services ("DCAS").
 - Complaints by employees or others against a member of the public visiting the agency

should be referred to the agency's EEO Officer.

- Complaints by the public against persons working at the agency should be handled by the agency's EEO Officer.
- In the case of complaints against employees of other agencies, the EEO Office of each agency should conduct a joint inquiry or investigation of the complaint.

Is there a specific document or rule that applies to the conduct or practice complained about? For example:

- Personnel Services Bulletins (<http://www.nyc.gov/html/dcas/html/employees/psbtoc.shtml>)
- Personnel Rules and Regulations of the City of New York (http://www.nyc.gov/html/dcas/html/employees/personnelrules_regs.shtml)
- Collective bargaining agreements (<http://www1.nyc.gov/site/olr/labor/labor-recent-agreements.page>)
- Title Specifications and Notices of Examinations (<http://dcascitynet.dcas.nycnet/TitleSpecs/home.aspx>)
- Agency Code of Conduct

Do the allegations involve conduct which must be reported to or investigated by a different office or agency? For instance:

- Discipline (Advocate): violations of code of conduct.
 - The EEO Office may rely on fact-findings of Discipline or may conduct separate or additional investigation.
- Inspector General: fraud, corruption and unethical conduct.
- Police/Law Enforcement: criminal conduct.
 - The EEO Office may have to place an investigation or inquiry on hold if the matter is referred to law enforcement.

Is it necessary that action be taken prior to the investigation of the complaint?

- After consultation and approval from appropriate agency personnel, it may be necessary to provide interim relief to alleged victims of harassment.
- Interim relief may include, among other actions, temporary transfers and assignment or shift changes.

Inform Complainant regarding confidentiality and anonymity, and the Policy regarding retaliation.

Prior to meeting Complainant, inform Complainant of the right to be accompanied by a representative.

Begin investigation immediately after determining that the allegations raised, if true, are sufficient to establish a case of discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint. Complete an investigation within 90 calendar days of the filing of the complaint.

- Ensure a Complaint Form is completed, preferably by Complainant although it can be done by the EEO Office, but should be signed by Complainant.

MEDIATION

Mediation is a voluntary approach to dispute resolution in which the parties try to resolve the dispute themselves on mutually agreeable terms, with the help of a trained third party mediator. The EEO Officer may recommend mediation, or either party to the complaint may request mediation.

The EEO Office may recommend mediation at the inquiry/intake stage and/or the parties may subsequently request mediation during the investigation, subject to the approval of the EEO Officer. Requests for mediation must be made in writing.

Mediation may be conducted by a trained third party mediator. The Center for Creative Conflict Resolution, which is part of the Office of Administrative Trials and Hearings (“OATH”), conducts mediation free of cost to City agencies and employees. More information about OATH is available at <http://www.nyc.gov/html/oath/html/about/the-center.shtml>.

Mediation is most appropriate for complaints involving interpersonal conflict, and should not be considered in certain cases, such as when the complaint includes allegations of sexual harassment or criminal conduct.

Mediation efforts must not exceed 45 days from the start of mediation. The EEO Office may extend the mediation for good cause.

While mediation continues, the 90-day period for completion of the investigation is suspended.

If the parties agree to a resolution during mediation, a resolution agreement will be drafted and provided to the parties and the referring EEO Officer. The resolution agreement will resolve the pending EEO complaint. Any resolution agreement requiring agency action or approval will only become effective subject to agency approval. If a resolution is not reached, the matter is returned to the EEO Officer and the 90-day investigative period resumes. The EEO Officer may also determine if an agreement has been violated and if so, whether to refer it for further mediation or declare the agreement void.

A party may withdraw from mediation at any time. The EEO Office may also terminate the mediation process if it deems that the effort has been unproductive. The EEO Office must inform all parties to the complaint, in writing, of the termination of mediation. The notice must also inform the parties that the EEO Office will resume its investigation of the complaint.

INVESTIGATION

- The purpose of the investigation is to determine whether there are facts supporting the allegations of discrimination.
- The complaint investigation should begin immediately after a determination that the allegations raised, if true, are sufficient to establish discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint.
- The complaint investigation should be completed and the Complainant should be notified of the outcome within **90 calendar days** of the filing of a complaint.
 - The EEO Office should ensure that a Complaint Form is completed, preferably by Complainant although it can be done by the EEO Office, but should be signed by Complainant, and logged into the complaint tracking system.
 - Complainants should be provided the following upon filing a complaint:
 - a copy of the written complaint
 - acknowledgement of receipt of the complaint
 - a copy of or links to the City' EEO Policy and Handbook
- Meet with Complainant to supplement or clarify information provided during the intake phase.
 - Confirm if there any persons who witnessed the alleged discriminatory conduct.
 - Does the Complainant have or know of any documents, such as emails or photos, containing information about the alleged conduct?
- Conduct a thorough investigation that provides answers as to:
 - who was involved in the alleged discriminatory conduct;
 - what occurred during the alleged conduct;
 - when and where the alleged conduct took place;
 - the identity of all witnesses to the alleged conduct, anyone with whom the alleged conduct has been discussed, or anyone who may have identified as having been subject to similar conduct as that alleged or who has information concerning any aspect of the alleged conduct;
 - whether this was an isolated conduct or part of a pattern;
 - what impact, if any, the alleged conduct has had on the Complainant and/or the work environment;
- Determine whether the action alleged to be discriminatory was based on a legitimate, nondiscriminatory reason.
- Obtain and review any available and relevant notes, recordings, photographs, physical evidence, or other documentation.

Conducting Interviews

- Explain objective of the interview.
- Explain City's EEO Policy on retaliation.
- Ask open-ended interview questions in a non-judgmental manner.
- Determine what witnesses know based on personal knowledge versus what they have heard.
- During each interview, take thorough notes, as close to verbatim as possible. Notes should reflect the content of the interview, both the questions and answers, as completely as possible.

Notice to Respondent of the Complaint

- The EEO Office must serve Respondent with a notice of complaint along with a redacted copy of the complaint or a summary of the complaint and allegations after interviewing the Complainant. The following information must be redacted: the Complainant's home address and telephone number, and the name(s), title(s), and division(s) of witnesses.
- Schedule a meeting with Respondent, ensuring that Respondent is informed of the right to be accompanied by a representative.
- Remind Respondent of the City's EEO Policy against unlawful discrimination and retaliation.
- Inform Respondent of the right to respond in writing to the complaint, and that the response should be submitted as soon as possible.
- Give Respondent an opportunity to offer his/her version of events and any other relevant information, including any witnesses who are likely to have relevant information. The EEO Office should interview witnesses identified by Respondent.

Amending the Complaint

The complaint may be amended in writing, for any reason, prior to conclusion of the investigation and notice of outcome to the parties. For purposes of the one-year filing period, amendments to the original complaint will be deemed timely if the original complaint was itself timely. However:

- If a Complainant, after filing an initial complaint, seeks to file a subsequent complaint based on different facts than those alleged in the initial complaint, the subsequent complaint should be treated as a separate complaint.
- If a Complainant, after filing an initial complaint, seeks to file a subsequent complaint alleging retaliation for making the initial complaint, the later complaint should be treated as a separate complaint.

- All initial, amended, and new complaints should be cross-referenced in the EEO Office's complaint file and the complaint tracking system.

Right to be Accompanied by a Representative

Any person who is interviewed during the course of an EEO investigation has the right to be accompanied by a representative of his or her choice. This includes individuals who make complaints, persons against whom complaints were made, or witnesses. It is preferable that the EEO Office receive advance notice that the person who is being interviewed will be bringing a representative. The representative may not respond on behalf of the party being interviewed or interfere with the interview.

Confidentiality and Record Keeping

Complaints and complaint investigations should be accorded the strictest confidentiality possible. The EEO Office should make every effort to protect from disclosure the complaint allegations, the identity of parties to the complaint and any witnesses. Exceptions include disclosing to persons with a legitimate need to know certain information in order to respond to the complaint allegations or implement interim or corrective action. All persons with whom the EEO Office interacts concerning the complaint and its investigation should be asked to refrain from discussing the complaint beyond their interaction with the EEO Office.

All complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office. The EEO Office may consult the agency's Office of General Counsel concerning a request to view or have copied, in whole or part, the EEO Office's files.

Meeting with EEO Office and Obligation to Cooperate

Anyone has the right to meet privately with the EEO Office during its office hours. An employee seeking to meet with the EEO Office at a reasonable time during that office's hours must secure prior permission for same from his/her appropriate supervisor. Such requests must be granted as a matter of right, but the supervisor may determine a reasonable time for the employee to visit the EEO Office. The employee is not required to disclose to the supervisor or anyone the reason for the employee's visit to the EEO Office. If appropriate or preferred by the employee, the meeting between the employee and the EEO Office may be scheduled before or after that office's hours, or during the employee's lunch break or personal time.

All employees are expected to cooperate with EEO investigations. Failure to cooperate in an investigation may result in disciplinary action.

False Allegations

If an employee knowingly makes a false complaint or knowingly provides false information to the EEO Office in the course of a complaint or complaint investigation, such conduct may be grounds for disciplinary action. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

Agency As Respondent

Whenever an agency and/or subdivision of an agency are named as a Respondent in a complaint, the Agency Head should designate an appropriate person to respond to the allegations in the complaint on behalf of the agency or subdivision.

PREPARING THE FINAL REPORT

The final investigative report **must be completed and the parties must be notified of the outcome within 90 calendar days** from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report.

The EEO Officer should routinely consult the agency's Office of General Counsel on questions that arise while preparing the written report or at any phase of the investigation.

- After all the relevant facts have been gathered, the EEO Officer must prepare a confidential written report on the complaint investigation and must submit the report to the Agency Head for review.
- In preparing the written report, the EEO Officer should determine the credibility of the parties and witnesses, including their motives and biases. The EEO Officer should routinely consult the agency's Office of General Counsel on questions that arise while preparing the written report or at any phase of the investigation.
- If, based on the facts, the EEO Officer determines that it is more likely than not that the Respondent engaged in unlawful discriminatory conduct in violation of the City's EEO Policy, the EEO Officer must determine the most appropriate action to be taken in light of the facts and circumstances and make a written recommendation to the Agency Head.
- Corrective action may include measures necessary to address the impact that the violation of the City's EEO Policy had on the Complainant or within the agency. Disciplinary action must be taken in accordance with provisions of law, rules and regulations and any relevant collective bargaining agreement. Determining the appropriate disciplinary action is often a difficult and sensitive matter with potential legal consequences. Therefore, the agency's Office of General Counsel, Agency Advocate and/or Labor Relations Office must concur in any recommendation to pursue discipline before it can be adopted as part of a written report.
 - The written report should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation.
- The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified. After review of the report by the Agency Head, the EEO Office should inform all parties in writing of the outcome of the investigation.

Informing Parties of Outcome

The decision after investigation should be communicated to the parties, in writing, in a discreet and confidential manner, indicating the conclusion reached, whether the misconduct alleged has been

substantiated, and the agency's opposition to that kind of activity.

APPENDICES

The following pages contain templates in the form of sample documents and letters that were developed to promote consistency in the complaint and investigative processes. Although agencies are not mandated to use these specific templates, the information captured in these templates should be considered the **minimum** requirement.

Regarding the sample final investigative report included here, this format is strongly encouraged in the interest of consistency and clarity of reporting.

All EEO complaints are to be entered in the complaint tracking system.

- It is **recommended** that this be done immediately following the initial intake interview with the Complainant(s).
- It is **required** that this be done before the end of the quarter.

SAMPLE A – Intake Form

[Insert agency name and logo]

Complaint #: _____

Date received: _____

Origin (circle one): Letter Telephone Office Visit Email

Received by (circle one): EEO STAFF NAME EEO STAFF NAME EEO STAFF NAME

1. Contact Information

Name _____

Title _____ Employee ID# _____

Work Unit _____ Location _____

Work Telephone # _____ Shift _____

Home Address _____

City _____ State _____ Zip _____

Home Phone # _____

Cell Phone # _____ Email Address _____

2. Subject/Respondent Information

Name _____

Title _____ Employee ID# _____

Work Unit _____ Location _____

Work Telephone # _____ Shift _____

Home Address _____

City _____ State _____ Zip _____ Home Phone # _____

Cell Phone # _____ Email Address _____

Complaint #: _____

Describe the nature of the complaint

Attach additional sheets as necessary

- Supervisor Behavior Employee Behavior Employment Practice

What resolution are you seeking?

Action(s) taken by EEO Office

- Counsel and Advice
- Mediation
- Not an EEO matter, referred to appropriate department for handling:

Date: _____

Department / Contact: _____

- Inquiry/Investigation Commenced

Complaint #: _____

SAMPLE B – Complaint Form

[Insert agency name and logo]

Complaint of Discrimination

(Please print the following information)

Name *ERN* Division/Office/Agency

Civil Service Title Office Title Supervisor

What is the alleged basis of discrimination?

(Please check all that apply)

- Age
- Alienage/Citizenship
- Arrest/ Conviction record
- Color
- Disability
- Gender/including gender identity/Pregnancy
- Genetic Predisposition
- Marital Status
- Military Status
- National Origin
- Partnership Status
- Race
- Religion/Creed
- Sexual Harassment
- Sexual Orientation
- Unemployment Status
- Victim of Domestic Violence, Sex Offense or Stalking
- Retaliation for filing a complaint or assisting in the investigation of an EEO complaint

Please give the name, title and division of the person(s) you believe discriminated against

y
ou.

When did the alleged discrimination occur? Date: ____/____/____

Where did the alleged incident occur?

Were there witnesses to the discrimination? Yes _____ No _____

Did you report this incident to anyone? Yes _____ No _____

(Please provide the name(s) of witnesses on the Witness Information Form)

Have you filed a complaint about the alleged discrimination with any of the following agencies?

- New York City Commission on Human Rights
- New York State Division of Human Rights
- United States Equal Employment Opportunity Commission
- United States Department of Labor
- United States Department of Justice

(If so, please state the date and the complaint number)

Complaint# _____ Date Filed: ____/____/____

Please describe what happened to you on the following pages, what you believe is unlawful discrimination, and/or how other persons were treated differently. This statement may be amended to correct omissions. Please use extra pages if necessary.

What corrective action do you want taken?

Complaint of Discrimination

Page 2

Description of Alleged Unlawful Discrimination

Please describe what happened to you which you believe is unlawful discrimination, and how other persons were treated differently. This statement may be amended to correct mistakes or omissions. *(Please use extra pages if necessary)*

I certify I have read the above charge and any attached pages that it is true to the best of my knowledge, information and belief, and that I have read the attached notices concerning my rights to file a complaint with federal, state and local civil rights enforcement agencies.

Date: ____/____/____

Complainant's Signature _____

NOTICE

YOUR RIGHTS TO FILE A COMPLAINT WITH CIVIL RIGHTS ENFORCEMENT AGENCIES

Any employee or applicant for employment who believes that they have experienced unlawful discrimination has a right to file a formal complaint with the federal, state or local agencies listed below. A person does not give up this right when they file a complaint with the DCAS EEO Officer, or any of the DCAS EEO Representatives. The following federal, state and local agencies enforce laws against discrimination:

NEW YORK CITY COMMISSION ON HUMAN RIGHTS

40 Rector Street

New York, NY 10006

(212) 306-7450

(212) 306-7686 (TTY)

Web site: www.nyc.gov/html/cchr/home/html

NEW YORK STATE DIVISION OF HUMAN RIGHTS

One Fordham Plaza, 4th Floor

Bronx, NY 10458

(718) 741-8400

or

163 West 125th Street, 4th Floor

New York, NY 100270

(212) 961-8650

(212) 961-8999 (TTY)

or

20 Exchange Place, 2nd Floor

New York, NY 10005

(212) 480-2522

or

55 Hanson Place, 3rd Floor

Brooklyn, NY 11217

(718) 722-2856

Web site: www.nysdhr.com

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office

33 Whitehall Street, 5th Floor

New York, NY 10004

(212) 336-3620; (212) 336-3622 (TTY)

Web site: www.eeoc.gov

In addition to filing with the aforementioned agencies, a person with a complaint alleging discrimination based on disability may file with:

UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION

**Disability Rights Section
New York Avenue Building
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530
(202) 307-0663 (voice and TDD)
Web site: www.usdoj.gov/crt/drs/drshome/htm**

A person with a complaint alleging discrimination based on citizenship or immigration status may file with:

**UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION
Office of Special Counsel for Immigration-Related Unfair Employment Practices
New York Avenue Building
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530
Voice: (202) 616-5594; (202) 616-5525; 1-800-237-2515
Web site: www.usdoj.gov/crt/osc**

A person who has been discriminated against by a recipient of financial assistance from the U.S. Department of Labor may file a complaint, either with the recipient or with the Civil Rights Center (CRC). Those who wish to file complaints with CRC should mail their complaints to:

**UNITED STATES DEPARTMENT OF LABOR
Director, Civil Rights Center
Frances Perkins Building, Room N-4123
200 Constitution Avenue N.W.
Washington, D.C. 20210
(202) 693-6502 (voice)
(202) 693-6515 (TTY)
Web site: www.dol.gov/dol/oasam/crhome.htm**

Please Note: There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days. If you wish to file a complaint with an external administrative agency, you should promptly contact any of these agencies directly or a private attorney for information about how to file a complaint, time limits, and how to preserve your rights.

Discrimination complaints filed with the DCAS EEO Office must be made within One Year of the incident that you are complaining about.

SAMPLE C – Witness Information Form

[Insert agency name and logo]

**WITNESS INFORMATION FORM
CONFIDENTIAL**

Complaint # _____

Complainant's Name: _____

Please provide the name, address/location and telephone number of any witness to the alleged unlawful discrimination. If DCAS employs the person please provide their division and title, if known. If the person (s) is employed by another city agency please provide the name of the agency, if known.

Please complete a separate form for each witness

(Please Print)

Name: _____

Agency: _____

Division: _____

Civil Service or Office Title: _____

Address/Location: _____

Telephone :() _____

SAMPLE E – CHECKLIST: TYPICAL QUESTIONS TO ASK A COMPLAINANT

- What is the basis of your complaint?

- What is the specific behavior that you experienced?

- Who was engaged in the behavior?

- When did the incident(s) take place?

- Was the behavior repeated or has it happened before?

- How long has this been going on?

- Where did the incident take place?

- How, if at all, did you react?

- Was your ability to work affected in any way?

- How were you affected otherwise?

- Do you know of anyone who witnessed this or similar incidents?

- Do you know of other employees who have been subjected to the same treatment or have the same concern?

- Do you have any evidence regarding this matter? (Photos, notes, letters, personal emails, texts, social media messages, voice mail messages, any objects of any kind, etc.)

 - If Complainant (or witnesses) reference evidence that resides on Department computers, the Department's office of Information Technology should be contacted for collection of this evidence.
- What resolution are you seeking? In other words, what is the outcome that you expect to result from filing this complaint?

SAMPLE F – Acknowledgment of Receipt of Policy

[Insert agency name and logo]

I, _____, employee ID number _____, acknowledge that I received the City of New York’s Equal Opportunity Policy.

I have reviewed the policy and understand its content. I also acknowledge that it was reviewed and explained to me during my counseling session.

Signature of Employee

Date

EEO Representative

Date

SAMPLE G – Inquiry Letter to Complainant

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

Thank you for contacting the EEO Office with your concerns. We will be conducting an inquiry into your complaint. The matter has been assigned to NAME and TITLE of EEO Investigator, who will be contacting you shortly.

In the interim, please feel free to contact Ms. _____ (EEO Investigator) directly at (###) ###-#### if there is any additional information you think may assist her. Thank you for your cooperation in advance.

Sincerely,

EEO OFFICER

SAMPLE H – Notice of Discrimination Complaint

Complainant v. Respondent

On _____,
Date Complainant's Name(s)

filed a complaint of discrimination against you on the basis of _____.

You may respond in writing to the allegations contained in this complaint after receiving this notice and a summary of the complaint allegations. Any response you wish to make must be received by the (agency's) _____ EEO Office on or before _____ (14 calendar days from date of notice).

We have scheduled a meeting on _____ at the EEO Office [Insert address]. Please call (phone number) immediately if you need to reschedule the meeting. You have the right to be accompanied by a representative of your choice. Please notify the EEO Office in advance of the meeting if you plan to be accompanied by a representative.

Responsibility for investigating this complaint rests with the agency's EEO Office. The complaint process is usually completed within 90 calendar days of the date on which the complaint was filed.

At the conclusion of the investigation, a confidential written report of the investigation will be submitted to the agency head. If, based upon the investigation, it is determined that the City's EEO Policy has been violated, a recommendation will be made to the agency head that appropriate corrective action be taken, which may include disciplinary action. All parties will be notified in writing of the outcome of the investigation.

A copy of The City's EEO Policy is attached for your reference. Please review this policy.

Please note that it is a violation of the City's EEO Policy to retaliate against or harass any person for filing a complaint of harassment or discrimination or cooperating with an investigation of a complaint. Such retaliation or harassment will be cause for disciplinary action regardless of the findings of the initial investigation.

EEO Officer or designee

Date

SAMPLE I – Request for Withdrawal of Complaint

[Insert agency name and logo]

RE: COMPLAINT # _____

I, _____, Employee ID number _____ hereby request withdrawal of my complaint of employment discrimination filed with the EEO Office on _____. My decision to request withdrawal of this complaint is not the result of either coercion or intimidation by any other individual. I understand that this withdrawal may NOT conclude the investigation of my complaint by the EEO Office of _____ Agency.

I wish to withdraw this complaint because

Complainant's Signature

Date

FOR OFFICE USE ONLY

ACCEPTED: YES NO

COMMENTS:

EEO Office Representative Signature

Date

SAMPLE J – Administrative Closure Letter

[Insert agency name and logo]

Date

Ms. / Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

Thank you for contacting the EEO Office with your concerns. Recently we requested that you provide us with information and list of witnesses to assist us in our inquiry/investigation. However, to date, you have failed to provide us with that statement.

Please forward the statement to us immediately. If we do not receive the information within the next 10 days, we will administratively close your case. If and/or when you submit the statement, your case will be re-opened. Thank you for your cooperation.

Please feel free to contact me with any questions or concerns that you may have at ###-###-####.

Sincerely,

EEO Officer

**SAMPLE K – Investigation Completed; Substantiated
Letter to Complainant**

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

Please be advised that the EEO Office has concluded its investigation of the above referenced complaint which you filed alleging discrimination on the basis of _____.

Upon a review of all the pertinent facts presented in the complaint, this office finds that the allegations were substantiated.

This case has been referred to our [State agency department/office] which will implement disciplinary action as the Commissioner deems appropriate.

If you should have any questions, I can be reached at ### ##-####.

*[Disciplinary Officer, Dept., Advocate, Labor Relations Department or Inspector General]

Sincerely,

EEO OFFICER

c: Commissioner

**SAMPLE L – Investigation Completed: Substantiated
Letter to Respondent**

[Insert agency name and logo]

Date

Ms. / Mr. FIRST NAME LAST NAME
STREET ADDRESS
BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

Please be advised that the EEO Office has concluded its investigation of the above referenced complaint which [Name of Complainant] filed alleging discrimination on the basis of _____, in which you were named respondent.

Upon a review of all the pertinent facts presented in the complaint, this office finds that the allegations were substantiated.

The following corrective measures will be taken: [Please enter steps that will be taken here, either in a sentence or as a bulleted list.]

Please note that it is a violation of the City's EEO Policy to retaliate against or harass any person for filing a complaint of harassment or discrimination or cooperating with the investigation of a complaint.

If you should have any questions, I can be reached at ### ##-####.

Sincerely,

EEO OFFICER

c: Commissioner

**SAMPLE M – Investigation Completed; Unsubstantiated
Letter to Complainant**

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####Re: EEO Complaint # _____

Dear Ms. _____:

I am writing to inform you that the EEO Office has concluded its review of the complaint you filed on _____. We conducted a comprehensive investigation of the charges made in your complaint, including _____. We have kept the investigation impartial and objective.

Based on our investigation, your charges of a violation of New York City's EEO Policy could not be substantiated. [State reason, if appropriate].

Thank you for bringing your concerns to our attention and for being patient while we addressed them. Please continue to report any conduct that you deem inconsistent with The City's policies. I want to assure you that [Agency Name] is committed to protecting you from any retaliation as a result of your complaint and our investigation. Please call me if you feel you are being subjected to retaliation in any form.

To protect the privacy of everyone involved in this investigation we have taken steps to handle this matter in confidence. We expect you to treat the information contained in this letter in the same manner.

Sincerely,

EEO OFFICER

c: Commissioner

**SAMPLE N – Investigation Completed;– Unsubstantiated
Letter to Respondent**

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint # _____

Dear Ms. _____:

Please be advised that the EEO Office has concluded its investigation of the above referenced complaint which [Name of complainant] filed alleging discrimination on the basis of _____, in which you were named respondent.

Upon a review of all the pertinent facts presented in the complaint, this office finds that the allegations were unsubstantiated.

To protect the privacy of everyone involved in this investigation we have taken steps to handle this matter in confidence. We expect you to treat the information contained in this letter in the same manner.

Please note that it is a violation of the City's EEO Policy to retaliate against or harass any person for filing a complaint of harassment or discrimination or cooperating with the investigation of a complaint.

If you should have any questions, I can be reached at ### ##-####.

Sincerely,

EEO OFFICER

c: Commissioner

**SAMPLE O – EEO Complaint Final Investigative Report
CONFIDENTIAL**

[Insert agency name and logo]

Date: _____

To: _____ [Agency Head]

From: _____ [EEO Officer or Investigator]

Re: _____ [EEO Complaint Number]

Complainant: _____

Respondent: _____

The undersigned was designated to conduct an investigation of alleged misconduct involving the above referenced matter.

Statement of Basis of Complaint:

This complaint alleges discrimination in the form of _____

The initial information that served as a basis for this investigation was provided by _____ [Identify person or persons who supplied information of possible misconduct] and consisted of [an oral statement *and/or* a written statement attached hereto as Appendix A].

The investigation was initiated on _____, and concluded on _____.

Summary of History of Complaint:

- _____

- _____

All potential witnesses have been interviewed and are listed as follows:

- Name: _____ Title (If NYC Employee) _____
- Name: _____ Title (If NYC Employee) _____
- Name: _____ Title (If NYC Employee) _____
- Name: _____ Title (If NYC Employee) _____

- Employee: _____ was contacted on _____, but declined to be interviewed.

The documents that were reviewed are listed as follows:

- _____
- _____
- _____

The following evidence has also been secured (any objects, images, printout of text messages, social media content, etc.):

- _____
- _____
- _____

Findings of Fact

[This section should contain statements made by the complainant and witnesses. Please cite attachments, if any.]

- _____

- _____

- _____

[This section should contain statements made by the complainant and witnesses that are disputed or unsubstantiated by the investigator(s).]

- _____

- _____

Statement of Response:

The Respondent responded to the allegations by stating

Opinions:

[This section should contain the opinions and observations of the EEO Investigator.]

Determination:

[This section should contain the EEO Investigator's determination as to whether or not the allegations were substantiated.]

Conclusion and Recommendations:

Based upon the conclusion of this investigation it is recommended that:

Date: _____

[Signature] EEO Officer

I have reviewed this report and the recommendation(s) made above.

The recommendations meet with my approval and will be adopted _____

The recommendations made above do NOT meet with my approval _____

Comments:

Date: _____

[Signature] Agency Head



**The City of New York
BUSINESS INTEGRITY COMMISSION**

100 Church Street · 20th Floor
New York · New York 10007
Tel. (212) 437-0500 · Fax (646) 500-7096
www.nyc.gov/bic

Noah D. Genel
Commissioner and Chair

July 23, 2019

Via Email: Cterry@eepc.nyc.gov
NYC Equal Employment Practices Commission
253 Broadway, Suite 602
New York, NY 10007
Attn.: Charise T. Terry

Re: Response to Preliminary Determination of the EEPC

Dear Ms. Terry:

The Business Integrity Commission has received the preliminary determination of the Equal Employment Practice Commission (the "EEPC") in connection with its evaluation of BIC's sexual harassment prevention and response practices for the period January 1, 2017 to December 31, 2018, which report is dated July 12, 2019 (the "Preliminary Determination"). This letter serves as the Commission's response to the Preliminary Determination, which identified one required corrective action. As set forth below, the Commission has taken the prescribed action and attaches the related documentation. In addition, the Commission has attached the outstanding reports noted in the Preliminary Determination.

The Preliminary Determination found that BIC is in compliance with the standards for the relevant subject areas in Sections I through V. Section VI (Responsibility for Implementation – Supervisors/Managers) indicates that the Commission is in "partial-compliance with the standards for this subject area." Specifically, under sub-topic number 28, the Preliminary Determination states that "BIC did not ensure that the managerial performance evaluation form contained a rating for EEO" The Preliminary Determination states that the Commission should "[e]nsure the managerial performance evaluation form contains a rating for EEO" In response, the Commission has updated its Managerial Tasks and Standards and Managerial Performance Evaluation forms to include the recommended language of Section V(E) of the City's EEO policy, which details enforcement and accountability standards for managers and supervisors. Examples of the revised forms are attached hereto.

Specifically, the Commission has amended the language on the Supervisory and Managerial Tasks and Standards and Performance Evaluation forms to read, in relevant part, as follows:

Tasks & Standards Form:

TASK: Maintain a work environment that fosters sensitivity and respect for the diversity of all individuals. Be accountable for effectively implementing EEO-related policies.

STANDARDS: Perform managerial or supervisory responsibilities in a non-discriminatory and non-retaliatory manner. Receive training in EEO laws. Cooperate in the implementation of the policy, standards, and procedures. Promptly consult with the EEO Officer on potential violation of this policy. Encourage and allow subordinates to consult and meet with the EEO representatives when appropriate. Maintain confidentiality with respect to EEO-related matters.

Performance Evaluation Form:

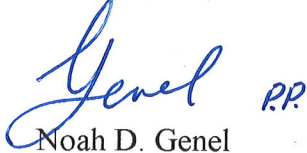
Makes every effort to maintain a work environment that fosters sensitivity and respect for the diversity of all individuals. 1) Is accountable in effectively implementing EEO-related policies; performs managerial or supervisory responsibilities in a non-discriminatory manner; 2) receives training in EEO laws; 3) cooperates in the implementation of the Policy, standards, and procedures (including training, complaint resolutions, processing, recording, and reporting reasonable accommodation requests, EEO-related recruitment, and selection standards; and modifying agency procedures to ensure equal employment opportunity for applicants and employees); 4) promptly consults with the agency's EEO Officer if he or she observes, learns about, or suspects that a violation of this Policy has occurred; 5) where appropriate, encourages subordinates to consult with an EEO office; 6) allows employees to meet with EEO representatives at the earliest practical time consistent with the operational needs of his or her unit; and 7) maintains confidentiality with respect to EEO-related matters.

With respect to Section VII of the Preliminary Determination (Reporting Standard for Agency Head), which states that the Commission did not provide to the EEPC the Quarterly Diversity and EEO Reports for the 4th quarter of fiscal year 2018 and the 1st and 2nd quarters of fiscal year 2019, BIC has attached those reports hereto. Additionally, in accordance with the Preliminary Determination, once the EEPC has determined that BIC does not require further review or monitoring, as the BIC Commissioner, I will send a memo to all staff reaffirming the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informing employees of any changes to its employment practices as a result of the EEPC's audit.

BIC is committed to the EEO program and continuing to strengthen our related policies and procedures. We look forward to working with the EEPC in the future.

If you have any questions regarding this response, please contact me or BIC EEO Officer Pamela Peralta, who can be reached at pperalta@bic.nyc.gov or (212) 437-0587.

Sincerely,

A handwritten signature in blue ink that reads "Genel P.P." in a cursive style.

Noah D. Genel
Commissioner and Chair

cc: Pamela Peralta, BIC EEO Officer

Encls.:

BIC Managerial and Supervisory Tasks & Standards

BIC Managerial and Supervisory Evaluation Forms

BIC Quarterly Diversity and EEO Reports



Sasha Nehu Ahuja
Chair

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

Charise L. Terry
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Director of Learning and
Development

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676.2724 fax

BY MAIL AND EMAIL

July 26, 2019

Noah D. Genel
Chair
Business Integrity Commission
100 Church Street, 20th Floor
New York, NY 10007

Re: Resolution #2019AP/233-831-(2019)
Business Integrity Commission
Evaluation of Sexual Harassment Prevention and Response Practices
Audit Period: January 1, 2017 to December 31, 2018
Determination: **FINAL**

Dear Chair Genel:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you for the continued cooperation extended to our staff. This document serves as a follow-up evaluation and Final Determination to the following:

Preliminary Determination Issued on: July 12, 2019
Response Received: July 23, 2019

Purpose

Chapter 35, Sections 815(a)(15) and (19) of the New York City Charter (Charter) calls for agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women.

Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective EEO for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and

monitor the implementation of the corrective action prescribed. The attachment contains the EEPC's final determination regarding the audit, review, and evaluation of the Business Integrity Commission's Sexual Harassment Prevention and Response Practices.

As the Business Integrity Commission falls within the EEPC's purview under Charter Chapter 36, Section 831(a), the EEPC is authorized to review, evaluate, and monitor the coordination and implementation of its affirmative employment programs of EEO and related practices. As indicated in our Preliminary Determination, the EEPC has adopted uniform standards¹ to this end. The purpose of this Final Determination, as authorized by Charter Chapter 36, Section 832(c), is to determine the sufficiency of the Business Integrity Commission's actions taken or planned thus far to correct areas of non-compliance identified in the EEPC's Preliminary Determination. Further, Chapter 36, Section 832(c) requires that: (1) the EEPC assign a compliance-monitoring period of up to six (6) months to monitor efforts taken to eliminate areas of non-compliance, if any; and (2) the agency respond in thirty (30) days and submit a report each month during this period on the progress of efforts taken to correct outstanding areas of non-compliance.

Next Steps

The assigned compliance-monitoring period is: August 1, 2019 to January 31, 2020. Correcting all outstanding areas of non-compliance without delay is highly encouraged and will serve to shorten this period.

If corrective actions remain: Corrective actions will be listed under the *Monitoring Required* section of the attached Final Determination. The EEPC requires that the agency head submit a signed response to this Final Determination. The signed response should indicate what steps the Business Integrity Commission has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Business Integrity Commission will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Business Integrity Commission is required to submit documentation that supports the implementation of each corrective action via TeamCentral, the EEPC's Automated Compliance-Monitoring System. Instruction on how to access and navigate TeamCentral is attached.

Final Memorandum: Upon the Business Integrity Commission's implementation of the final corrective action, if any, the EEPC requires that the Business Integrity Commission submit a final memorandum, signed by the agency head, that recognizes the EEPC's audit and reiterates commitment to equal employment practices. **Upon receipt of this final memorandum, the EEPC will issue a *Determination of Compliance*.**

If no corrective actions remain: In lieu of a response to this Final Determination, the Business Integrity Commission must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Business Integrity Commission will be exempt from the abovementioned compliance-monitoring period.

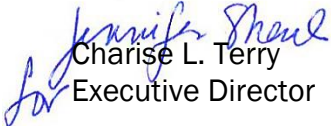
¹ The EEPC's uniform standards for auditing municipal entities and minimum standards for auditing community boards (collectively "Standards") are founded upon, and consistent with, federal, state, and local laws and regulations, and policies and procedures, including, but not limited to, the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to be Utilized by City Agencies 2014*; New York City Human Rights Law (NYC Administrative Code 8); New York State Human Rights Law (New York Executive Law, Article 15); New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

Conclusion

This is the EEPC's Final Determination. Questions regarding next steps may be addressed to Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at jshaw@eepc.nyc.gov or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,


Charise L. Terry
Executive Director

c: Pamela Peralta, Principal EEO Professional

FINAL DETERMINATION

A response indicating progress of Business Integrity Commission's efforts to correct outstanding areas of non-compliance, with supporting documentation, is due within 30 days.

The Equal Employment Practices Commission's findings and corrective actions required to remedy areas of non-compliance are based on the audit methodology, which included collection and analysis of the documents, records, and data provided; the EEPC's *Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*; the *EEPC Supervisor/Manager Survey*; the *Annual EEO Plans* and *Quarterly EEO Reports* of the audited entity; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the optional response² (if applicable) to the EEPC's Preliminary Determination, our Final Determination is as follows:

Agree

Regarding your responses to the following EEPC required corrective actions, we *Agree* based on documentation that is attached to your response.

Corrective Action #1:

Ensure 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).

Agency Response:

"The Commission has updated its Managerial Tasks and Standards and Managerial Performance Evaluation forms to include the recommended language of Section V(E) of the City's EEO policy, which details enforcement and accountability standards for managers and supervisors." On July 23, 2019 the Business Integrity Commission provided the EEPC with an updated managerial performance evaluation form that contained the following standards for EEO: "[m]akes every effort to maintain a work environment that fosters sensitivity and respect for the diversity of all individuals, [i]s accountable in effectively implementing EEO-related policies; performs managerial or supervisory responsibilities in a non-discriminatory manner, receives training in EEO laws, cooperates in the implementation of the Policy, standards, and procedures (including training, complaint resolutions, processing, recording, and reporting reasonable accommodation requests, EEO-related recruitment, and selection standards; and modifying agency procedures to ensure equal employment opportunity for applicants and employees), promptly consults with the agency's EEO Officer if he or she observes, learns about, or suspects that a violation of this Policy has occurred, where appropriate, encourages subordinates to consult with an EEO office, allows employees to meet with EEO representatives at the earliest practical time consistent with the operational needs of his or her unit, and maintains confidentiality with respect to EEO-related matters."

EEPC Response:

The EEPC accepts the agency's response and the managerial performance evaluation form as confirmation that Corrective Action #1 has been implemented.

² Excerpts are italicized.

Monitoring Required

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance-monitoring period.

FINAL ACTION:

Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

The EEPC thanks you and your staff for your continued cooperation.



**RESOLUTION NO.
2019AP/233-831-(2019)
Business Integrity Commission
Chair Noah D. Genel
Sexual Harassment Prevention and Response Practices
DETERMINATION: FINAL**

SYNOPSIS

Corrective Action(s):	Total: 1		
Period Audit Covered:	January 1, 2017 to December 31, 2018		
Preliminary Determination Issued:	July 12, 2019	Response Received	July 23, 2019
Final Determination Issued:	July 26, 2019	Response Received	August 1, 2019
Compliance-Monitoring :	Required	August 1, 2019 to January 31, 2020	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Business Integrity Commission's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Business Integrity Commission's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated July 12, 2019, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

Corrective Action #1: Ensure 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).

Whereas, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on July 26, 2019, which indicated that no areas required corrective action; and

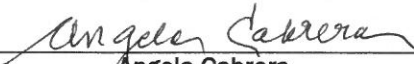

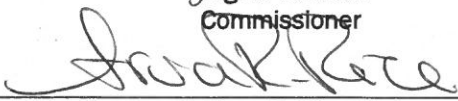


Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from August 1, 2019 to January 31, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on July 25, 2019, the entity was required to issue a response to the EEPC's Final Determination; Now Therefore,

Be It Resolved, that pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the EEPC approves the issuance of this Final Determination to Chair Noah D. Genel to assign compliance-monitoring.

Approved unanimously on September 12, 2019.

 _____ Angela Cabrera Commissioner	 _____ Malini Cadambi Daniel Commissioner
 _____ Arva R. Rice Commissioner	 _____ Elaine S. Reiss, Esq. Commissioner
 _____ Sasha Neha Ahuja Chair	



**The City of New York
BUSINESS INTEGRITY COMMISSION**

100 Church Street · 20th Floor
New York · New York 10007
Tel. (212) 437-0500 · Fax (646) 500-7096
www.nyc.gov/bic

Noah D. Genel
Commissioner and Chair

Memorandum

To: All BIC Staff
From: Commissioner and Chair Noah D. Genel *NDG*
Date: August 1, 2019
Re: Sexual Harassment Prevention and Response Practices
Business Integrity Commission

The New York City Charter requires the Equal Employment Practices Commission (the “EEPC”) to conduct an audit once every four years to ensure each City agency or municipal entity (collectively “agency”) complies with federal, state, and local laws and regulations, and policies and procedures that increase equal opportunity for employees and applicants.

The EEPC recently concluded an audit and evaluation of the Business Integrity Commission’s practices and procedures for compliance with city, state, and federal equal employment opportunity laws and regulations, and identified enhancement by means of the following:

- **Corrective Action #1:** Ensure 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).

Through successful completion of the EEPC’s audit, evaluation, and monitoring processes and the aforementioned enhancements, I reaffirm BIC’s commitment to ensuring that BIC’s employment practices encourage and maintain a workplace free from unlawful discrimination and sexual harassment, and that all employees are aware of their rights and obligations under the agency’s equal employment opportunity policies.



RESOLUTION NO.
2019AP/233-831-(2019)C25
Business Integrity Commission
Chair Noah D. Genel
Sexual Harassment Prevention and Response Practices
DETERMINATION: COMPLIANCE

SYNOPSIS

Corrective Action(s)	Total: 1		
Period Audit Covered	January 1, 2017 to December 31, 2018		
Preliminary Determination Issued	July 12, 2019	Response Received	July 23, 2019
Final Determination Issued	July 26, 2019	Response Received	August 1, 2019
Compliance-Monitoring	Required	August 1, 2019 to January 31, 2020	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Business Integrity Commission's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Business Integrity Commission's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated July 12, 2019, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

Corrective Action #1: Ensure 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).

Whereas, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on July 26, 2019, which indicated that no areas required corrective action; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from August 1, 2019 to January 31, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on August 1, 2019, the entity issued a response to the EEPC's Final Determination; and


Whereas, in accordance with Charter Chapter 36, Section 832(c), the Business Integrity Commission was monitored until August 1, 2019; and

Whereas, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the Chair submitted a copy of a memorandum to staff dated August 1, 2019, which recognized the EEPC's audit and reiterated commitment to the Business Integrity Commission's equal employment practices; Now Therefore,

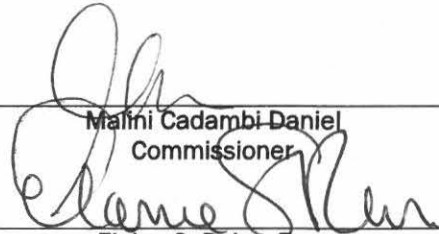
Be It Resolved, that the Business Integrity Commission has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

Be It Resolved, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to Chair Noah D. Genel of the Business Integrity Commission.

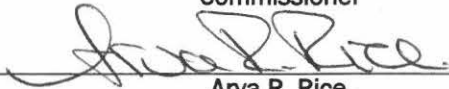
Approved unanimously on September 12, 2019.



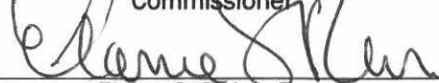
Angela Cabrera
Commissioner




Malini Cadambi Daniel
Commissioner



Arva R. Rice
Commissioner



Elaine S. Reiss, Esq.
Commissioner



Sasha Neha Ahuja
Chair

NYC
**Equal Employment
Practices Commission**

Sasha Neha Ahuja
Chair

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/
Director of Learning and Development

Jennifer Shaw, Esq.
Executive Agency Counsel/
Director of Compliance

253 Broadway
Suite 602
New York, NY 10007

212. 615. 8939 tel.
212. 676. 2724 fax

BY MAIL AND EMAIL

September 12, 2019

Noah D. Genel
Chair
Business Integrity Commission
100 Church Street, 20th Floor
New York, NY 10007

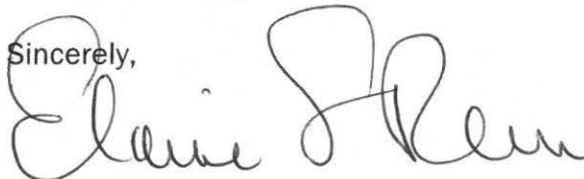
Re: Resolution #2019AP/233-831-(2019)C25
DETERMINATION: Compliance

Dear Chair Genel:

On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEPC's Board of Commissioners has approved the attached Determination.

Thank you and principal EEO Professional Pamela Peralta for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,



Elaine S. Reiss, Esq.
Commissioner

C: Principal EEO Professional Pamela Peralta, BIC

EEPC

EQUAL EMPLOYMENT PRACTICES COMMISSION

This

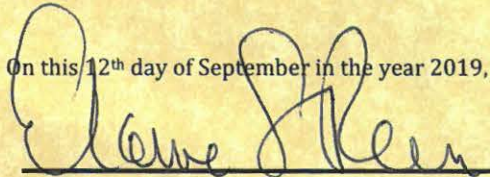
Determination of Compliance

is hereby issued to

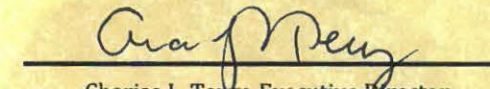
Business Integrity Commission

*for successful implementation of 1 of 1 required corrective action(s),
thereby achieving compliance with the Equal Employment Practices Commission's
Sexual Harassment and Prevention Response Practices
from January 1, 2017 to this date.*

On this 12th day of September in the year 2019,



Elaine S. Reiss, Esq., Commissioner



Charise L. Terry, Executive Director

*In care of Chair Noah D. Genel
and Principal EEO Professional Pamela Peralta*