



NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM
DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN
FISCAL YEAR 2020

I. Introductory, Commitment and Accountability Statement by the Agency Head

Recognizing that the people of our agency are one of our greatest assets, we are committed to recruitment, development, and retention of a diverse and inclusive workforce reflective of our City's population. When we value our differences, we build stronger teams driving the best performance. We expect all managers and supervisors to actively promote a safe, equitable and inclusive work environment for all New York City employees and values equity, inclusion, and respect for all. I will hold the EEO Officer, all EEO professionals, human resources professionals, legal 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 by observing EEO regulations and actively working toward attaining agency goals in this area. All agency staff are accountable for complying with the City's EEO Policy and implementing the FY 2020 Diversity and EEO Plan.

In early 2020, I will issue a Commitment Statement to all agency employees affirming the principles of diversity, inclusion, and equal employment opportunity. The statement is intended to guide managers and supervisors and to communicate our dedication to equity, diversity and inclusion to all employees.

I will drive accountability by involving the EEO Officers as the agency makes critical human resources decisions, recruitment strategies, vacancy projections, succession planning, selections for training/career development opportunities, and strategic planning.

My leadership team will implement the objectives and actions of this plan, as well as work to create a diversity and inclusion strategy based upon guidance provided by the DCAS Office of Citywide Equity and Inclusion (OCEI). We will conduct discussions throughout the year and we will review our achievements at the end of the fiscal year.

The agency will report to DCAS on the steps undertaken to comply with all legal mandates and the provisions of the various Executive Orders and laws prohibiting employment discrimination in New York City. The agency will also disseminate and post legal notices and policies as required.

The agency is committed to maintaining a workplace free from all forms of harassment and discrimination prohibited by the City's EEO Policy. The Agency EEO Officers Sabrina Hayat, Craig Thornton, Badar Malik, and Melinda Brundidge-Watson will serve as a resource for managers and supervisors by providing best practices and direction in addressing EEO issues. Each EEO Officer's contact information will be prominently available to all

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

employees. Employees will be encouraged to contact an EEO Officer with any questions, inquiries, concerns or complaints regarding the EEO Policy.

This statement is the same as last year.

II. **Recognition and Accomplishments**

In the past year our agency accomplished the following as part of our commitment to Equal Employment Opportunity, Diversity and Inclusion:

1. Added two additional EEO Officers
2. NYCERS achieved a 99% completion rate for the DCAS Sexual Harassment Prevention Training for cycle one, ending on August 31, 2019. NYCERS is working towards 100% compliance for cycle two, beginning September 3, 2019.
3. NYCERS' EEO Officers have been to various EEO trainings to stay current with new developments in the field.

The agency recognizes employees, supervisors, managers, and agency units demonstrating superior accomplishment in diversity and equal employment opportunity through the following:

- Diversity & EEO Awards*
- Diversity and EEO Appreciation Events*
- Public Notices
- Positive Comments in Performance Appraisals
- Other: _____

**Please specify under "Additional Comments"*

The agency will continue to recognize employees, supervisors, managers, and agency units demonstrating superior accomplishment in diversity and equal employment opportunity in FY 2020.

Additional Comments:

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

III. Workforce Review and Analysis

1. Describe steps taken to encourage all employees at your agency to update self-ID information regarding race/ethnicity, gender, and veteran status through either NYCAPS Employee Self Service (ESS) or other means.

In FY 2020, the agency will remind and encourage its employees to update self-ID information regarding race/ethnicity, gender, and veteran status through any of the following means:

- NYCAPS ESS (by email annually)
- Agency's intranet site
- Newsletters
- On-boarding
- Manager/supervisor observation, if employee refuses to self-ID

Additional Comments:

2. Describe the review process of the CEEDS workforce composition, utilization, new hires and promotions data presented in your quarterly agency workforce dashboard and/or internal workforce reporting. Describe how your agency's EEO Officer, Personnel Officer and General Counsel work together to review demographic trends. These reports must be reviewed regularly with the Agency Head.

- The agency conducts regular reviews of the dashboard sent to the EEO Officer by DCAS' Office of Citywide Equity and Inclusion (OCEI) to provide demographic data and trends. The review includes an analysis of workforce composition by job title, job group, race/ethnicity and gender for all employees; new hires, promotions and separation data; and utilization analysis.

Reviewed with	Frequency
Human Resources	<input type="checkbox"/> Quarterly <input checked="" type="checkbox"/> Semi-Annually <input type="checkbox"/> Annually <input type="checkbox"/> Other _____
General Counsel	<input type="checkbox"/> Quarterly <input checked="" type="checkbox"/> Semi-Annually <input type="checkbox"/> Annually <input type="checkbox"/> Other _____

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

Agency Head	<input type="checkbox"/> Quarterly <input checked="" type="checkbox"/> Semi-Annually <input type="checkbox"/> Annually <input type="checkbox"/> Other _____
Other (___specify)	<input type="checkbox"/> Quarterly <input type="checkbox"/> Semi-Annually <input type="checkbox"/> Annually <input type="checkbox"/> Other _____

The agency review entails a discussion concerning perceived workplace barriers for job groups that may surface in underutilization reports and for factors that may be creating these barriers (e.g., hiring patterns in specific job titles).

The agency reaches out to DCAS to serve as a resource in identifying strategies and best practices to address barriers to entry as well as to receive guidance concerning the interpretation of underutilization reports.

Additional Comments:

IV. EEO, Diversity, Inclusion, and Equity Initiatives for FY 2020

1. Proactive Strategies to Enhance Diversity, EEO and Inclusion

State below the central goals of your strategy for FY 2020 focused on enhancing diversity, equal employment opportunity, and the overall value of inclusion at your agency. Include initiatives that your agency will implement in FY 2020.

- 1. Workforce:** NYCERS will endeavor to expand its recruitment sources in order to attract well-qualified candidates from diverse backgrounds. NYCERS now advertises employment opportunities in El Diario.
- 2. Workplace:** NYCERS will increase efforts to have staff trained in the EEO policy, including increased training for managers and supervisors regarding their responsibilities as leaders in diversity and inclusion.
- 3. Community:** NYCERS will continue to expand its EEO related outreach to ensure that all current employees and new employees are educated regarding their rights and responsibilities under the EEO Policy. Further, the agency finalized a contract for temporary employment with a MBWE owned temporary employment agency.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

2. Describe the new and continuing initiatives devoted to innovative enhancement and expansion of the three strategic pillars of Diversity and EEO strategy: **WORKFORCE**, **WORKPLACE**, and **COMMUNITY**.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

A. WORKFORCE:

NOTE: Please address the specific recruitment, selection and promotion strategies, sources and procedures in Sections V and VI.

The agency will address underutilization in FY 2020 by:

- Enhancing internal and external applicant pools to address the underutilization.
- Using the quarterly workforce dashboard and identifying specific job groups where underutilization exists to guide recruitment efforts.

The agency will implement the following strategies to address the impending retirement of employees and possible loss or gap in talent:

- Job analysis and skills audit.
- Conduct workforce planning and forecasting.
 - Use the DCAS Retirement Predictor Tools to address the impending retirement of employees and possible loss or gap in talent.
 - Integrate succession planning in the agency activities to develop a pipeline, facilitate a seamless transition and continuity of service.
 - Ensure that there will be a diverse applicant pool for the anticipated vacancies.
 - Evaluate best sources for diverse candidates
 - Encourage agency employees to take promotional civil service examinations by:
 - Sending e-mails with schedule of exams
 - Providing link to specific DCAS exams
 - Posting schedules and exam announcements at the agency intranet
 - Other (specify): _____

The agency will implement the following initiatives to develop and retain employees:

- Institute coaching, mentoring and cross training programs.
- Identify best practices to retain mature employees.
- Implement initiatives to improve the development and training of employees.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

- Promote employee involvement by supporting Employee Resource Groups
- Conduct Diversity and Inclusion Training

Additional Initiatives, Programs, or Comments:

B. WORKPLACE:

The agency will take initiatives to create an inclusive work environment that values differences, and to maintain focus on retaining talent across all levels.

In FY 2019, the agency conducted the following survey(s) to improve the recruitment, hiring, inclusion, retention and advancement of people in underrepresented groups:

- Engagement /Job Satisfaction/ Employee Morale Survey(s)
- Citywide Onboarding survey
- Citywide Exit Survey for Non-Represented Employees
- Exit interview or surveys developed by the agency

The agency will adopt in FY 2020 the following initiatives based on the analysis of the results of the survey(s):

1. Cross Training within units to ensure that staff has the opportunity to develop professionally and remain challenged
2. Strategic workforce program to create opportunities that would retain talented employees

Additional Initiatives, Programs, or Comments:

NYCERS includes the following EEO information in all managerial competencies, which are completed or updated when a new manager starts at NYCERS.

- EEO Compliance--Manager ensures staff is performing appropriate tasks within their titles.
- Manager ensures staff is effectively and efficiently utilized in their current positions to ensure optimal service delivery and that work accomplishments are met.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

- Manager maintains a work environment free of discrimination and harassment by reinforcing policies in staff meetings, memos, and personal actions.

Additionally, NYCERS includes the following EEO information in all supervisor tasks and standards, which are completed or updated when a new supervisor starts at NYCERS.

- EEO Compliance--Ensures staff is performing appropriate tasks within their titles. Ensures staff is effectively and efficiently utilized in their current positions.
- Maintains a work environment free of discrimination by reinforcing policies in staff meetings.

C. COMMUNITY:

In FY 2020, the agency will:

- Continue or plan to promote diversity and EEO community outreach in providing government services
- Promote participation with minority and women owned business enterprises (MWBES).
- Conduct a customer satisfaction survey.
- Identify best practices for establishing a brand of inclusive customer service.
- Undertake initiatives to improve community relations, community awareness, and to engage communities being served in recruitment efforts, service development and delivery.

Additional Initiatives, Programs or Comments:

The agency finalized a contract for temporary employment with a MBWE owned temporary employment agency.

V. Recruitment

A. Recruitment Efforts

1. Summary of Recruitment Efforts – Include steps that will be taken to give notice to all employees of discretionary job postings within the agency as well as proactive efforts/strategies planned to market positions externally.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

The agency will implement the following recruitment strategies and initiatives in FY 2020:

- Review policies, procedures, and practices related to targeted outreach and recruitment.
- Review underutilization in job groups to inform recruitment efforts.
- Direct resources to bolster efforts aimed at increasing the effectiveness of diversity recruitment.
- Put in place an operating, up-to-date, accessible website, mobile application and social media presence related to careers. Currently in operation.
- Assess agency job postings to ensure appropriate diversity, inclusion, and equal opportunity employer messaging.
- Share job vacancy notices with the Mayor's Office for People with Disabilities at nycatwork@mopd.nyc.gov, (212) 788-2830 and ACCES VR by sending the job vacancy notices to Maureen Anderson at Maureen.Anderson@nysed.gov, (212) 630-2329 so they can share it with their clients.
- Reach out to the DCAS Office of Citywide Recruitment (OCR) as a resource at citywiderecruitment@dcas.nyc.gov.
- If your agency is an eHire agency, post ALL vacancies on NYC Careers.
- Ensure that agency personnel involved in both the discretionary and the civil service hiring process have received:
 - structured interviewing training
 - unconscious bias training
- Use the NYCAPS eHire Applicant Interview Log to determine whether recruitment efforts and recruitment sources yield a diverse pool of qualified candidates.
- Assess recruitment efforts to determine whether such efforts adversely impact any particular group.

Additional Strategies, Initiatives and Comments:

The agency maintains and uses its own Applicant Interview Log for all recruitments. This form allows the agency to collect and maintain ethnicity, gender and disability information for all candidates who are interviewed for position at NYCERS. NYCERS also makes use of the NYCAPS eHire Applicant feature to help comply with Local Law 14.

Our hiring process utilizes structured interviewing, including standardized interview questions and having more than one person on the hiring panel. Additionally, when a supervisor or manager is involved in a recruitment, he or she receives information from HR regarding the interview process and structured interviewing.

NYCERS' EEO Officers have attended both the structured interview and unconscious bias trainings offered by DCAS and going forward supervisors and managers who are involved in the hiring process will be encouraged to attend these trainings.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

Diverse Recruitment Source(s)	What sort of return do you expect to see from the effort? Indicate if this source yielded increased and diverse applicant pool. Were there successful hires from this source?
1. El Diario	1. <input type="checkbox"/> Previous hires from this source
2. Monster.com (Which includes Monster Diversity)	2. <input checked="" type="checkbox"/> Previous hires from this source
3. Indeed.com	3. <input type="checkbox"/> Previous hires from this source
4.	4. <input type="checkbox"/> Previous hires from this source
5.	5. <input type="checkbox"/> Previous hires from this source

B. Internships/Fellowships

Indicate the type of internship/fellowship opportunities available at your agency. Please provide the number of student interns/fellows employed in FY 2019 and their demographic profiles. Indicate your plans to provide internship/fellowship opportunities in FY 2020.

The agency provided the following internship opportunities in FY 2019:			
Type of Internship\Fellowship	Total	Race/Ethnicity *[#s] * Use self-ID data	Gender * [#s] * Use self-ID data
1. Urban Fellows			M __ F__ Non-Binary __ Other __ Unknown __
2. Public Service Corps			M __ F__ Non-Binary __ Other __ Unknown __
3. Summer College Interns	2	Black	M _1 F_1 Non-Binary __ Other __ Unknown __
4. Summer Graduate Interns	2	White	M _1_ F_1_ Non-Binary __ Other __ Unknown __

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

5. Other (specify):			M __ F__ Non-Binary __ Other __ Unknown __
* Self-ID data is obtained by EEO Office from NYCAPS.			
<input checked="" type="checkbox"/> The agency will utilize the internship/fellowship programs to improve a pipeline of candidates from underutilized groups for entry-level positions, including in mission-critical occupations.			
<input type="checkbox"/> The agency has hired former interns/fellows.			
<input checked="" type="checkbox"/> The agency plans to provide internship/fellowship opportunities in FY 2020.			
<i>Additional Comments:</i>			
The agency finalized a contract for temporary employment with a MBWE owned temporary employment agency.			

C. 55-a Program

Section 55-a of the New York State Civil Service Law allows a qualified person with a certified mental or physical disability to be hired into a competitive Civil Service position without having to take a civil service examination. The City encourages agencies to use the 55-a program as a tool to build a diverse workforce and create greater access to City employment for qualified candidates with disabilities.

1. Please discuss plans to utilize the 55-a Program to hire and retain qualified individuals with disabilities.

The agency uses the 55-a Program to hire and retain qualified individuals with disabilities and plans to utilize the 55-a Program to hire and retain qualified individuals with disabilities in FY2019. Currently, there are 0, 55-a participants. There are 0 participants who have been in the program less than 2 years. Last year, a total of 4-5 applications for the program were received and 0 participants left the program.

2. Indicate the goals of your 55-a Program Coordinator for FY 2020. Also include your agency plans to do the following: participate in career and job fairs; use internship, work-study, co-op, and other programs to attract a pool of diverse 55-a program applicants; and promote and encourage 55-a program participants to take civil service examinations.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

The agency uses the 55-a Program to hire and retain qualified individuals with disabilities and plans to utilize the 55-a Program to hire and retain qualified individuals with disabilities in FY 2020.

Currently, there are 0 [number] 55-a participants.

There are 0 [number] participants who have been in the program less than 2 years.

Last year, a total of 23 [number] new applications for the program were received and 0 participants left the program due to [state reasons] _____.

If there have been no new participants in the program for less than two years, please indicate initiatives taken to hire new 55-a employees.

The New York City Employees Retirement System will continue to enhancing access to employment opportunities for individuals with disabilities. All job postings indicate that NYCERS is a participant in the City 55-a program and provide information regarding the program. NYCERS also currently circulates vacancies through MOPD as well. We hope that this will encourage excellent candidates with disabilities to apply. _____

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The agency will review and process new applications for the 55-a program in light of DCAS' policy guidance which states that decisions on 55-a program admissions should take into account the following three criteria:

a) the severity of the candidate's physical and/or mental disability;

b) the candidate's previous and/or current encounter with significant barriers to finding employment due to the disability;

c) the candidate's encounter of obstacles that can prevent him/her from taking civil service examinations due to the disability.

Based on the June 7, 2016, 55-a memorandum, issued by DCAS, the agency will carefully evaluate each request by longtime provisional employees for designation under § 55-a to serve non-competitively in a competitive title position to ensure that the request is not made solely to avoid the consequences of CSL § 65(3). In addition, the agency will reiterate to provisional staff that 55-a certification should not be used as a substitute for passing a civil service exam. The agency will encourage 55-a participants to take civil service examinations.

The agency plans to participate in career and job fairs and use internship, work-study, co-op, and other programs to attract a pool of diverse 55-a program applicants.

The goals of the 55-a Coordinator for FY 2020 are:

1. Encourage excellent candidates with disabilities to apply.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

2. Utilize the 55-A program for entry-level positions in technical, professional, administrative and clerical areas.

3. fill some of our hard to recruit positions with qualified individuals who participate in the program and to diminish or eliminate barriers to equal opportunity.

4.

These goals are the same as last year.

Additional Goals, Initiatives, and Comments:

VI. Selection (Hiring and Promotion)

1. For FY 2020, if your agency is fiscally able to hire new employees and/or backfill open positions, please discuss the planned duties for your career counselor specific to advising employees of opportunities for promotion as well as overall career development.

In FY 2020, the agency's Career Counselor will perform the following tasks:

- Review policies, procedures, and practices related to hiring (including vacancy announcements, use of certification lists, and the selection process for mission critical occupations).
- Promote employee awareness of opportunities for promotion and transfer within the agency.
- Inform employees on promotional and transfer opportunities.
- Arrange agency wide notification of promotional and transfer opportunities.
- Encourage the use of training and development programs to improve skills, performance and career opportunities.
- Provide information to staff on both internal and external Professional Development training sources.
- Explain the civil service process to staff and what it means to become a permanent civil servant.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

- Provide technical assistance in filing for upcoming civil service exams.
- Provide agency staff with citywide vacancy announcements, civil service exams notices and other career development information.
- Continue to facilitate the use of training to improve skills and access to career opportunities of all employees in its Leadership Program and via referrals to DCAS.
- Assist employees and Job Training Program participants (if applicable) assess and develop career paths.
- Provide resources and support for:
 - Targeted job searches
 - Development job search strategies
 - Resume preparation
 - Review of effective interview techniques
 - Review of techniques to promote career growth and deal with change
 - Internship exploration

Additional Initiatives and Comments:

The agency has appointed Dietra Williams, Associate Director of Human Resources, as Career Counselor. Since the appointment Dietra has been providing career information to staff. She has created a program called Career Corner and has provided monthly tips on topics such as resume writing and interviewing. These tips have been emailed to all employees and are not archived on the Career Corner page of the agency's intranet.

2. What are your current new hire and promotional procedures for selection, especially for mid- and high-level discretionary positions?

In FY 2020, the agency will do the following:

- Review and develop a protocol for in-title promotions and salary increases.
- Promote employee awareness of opportunities for promotion and transfer within the agency.
- Assess the criteria for selecting persons for mid-level to high level positions.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

- Publicly post announcements for all positions, including senior level positions.
- Actively reach out to networks of underrepresented groups as part of its outreach.
- Reach out to the **Mayor's Office of Appointments – DW** for help to identify diverse pools of talent and additional networks for finding qualified candidates.
- Ensure that hiring managers are trained in structured interviewing techniques to avoid unintentional biases in the hiring process.
- 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.
- If 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.
- Compare the demographics of current employees to the placements.
- Revise the promotion request form to include the various reasons why a promotion may be necessary.
- Review the demographics race\ethnicity and gender for those who received the promotion\salary raises.
- Submit the resumes for the second- and third-choices for the position.
- Review the demographics of the senior leadership regularly (by Agency Head).
- Review on a quarterly basis the demographics of those who received promotion and share the information with the Commissioner and Human Resources (by EEO Officer).

Additional Comments:

3. For FY 2020, indicate how your agency will review the methods by which candidates are selected for new hiring and promotion. Identify the steps that are taken to ensure that

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

selection process is objective and job related. For instance, have you explored/implemented structured interviewing and/or training, panel interviews, etc.?

During FY 2020, the agency will do the following:

- Review policies, procedures, and practices related to hiring (including vacancy announcements, use of certification lists, and the selection process for mission critical occupations) for possible barriers that have a negative impact on minority employees and applicants.
- Use a collaborative effort between EEO, HR and managers where necessary, develop action plans to eliminate identified barriers.
- Develop specific, job-related qualification standards for each position that reflect the duties, functions, and competencies of the position and minimize the potential for gender stereotyping and other unlawful discrimination. Make sure these standards are consistently applied when choosing among candidates.
- Establish written objective criteria for evaluating candidates for hire or promotion and applying those criteria consistently to all candidates.
- In conducting job interviews, ensure nondiscriminatory treatment by conducting a structured interview, where the same questions are asked of all applicants for a particular job or category of job and inquiring about matters directly related to the position in question.
- Use a diverse panel of interviewers to conduct the interview.
- Have the EEO Officer review the interview questions.
- Have the EEO Officer observe interviews, where possible.
- Use the NYCAPS eHire applicant tracking system for external and internal applicants.
- Make adjustments to agency outreach and recruitment efforts where necessary.
- Monitor the results of action plans for any changes in the agency workforce including increases or decreases in applications of qualified applicants and selection rates.

Additional Comments:

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

4. For FY 2020, what steps will your agency take to review the positions filled through a civil service list?

- A. Detail planned actions specific to review of title specification, job description, interview procedures, and selection procedures.
- Reach out to DCAS' Classification at 212-386-0344 to ensure that the job description and specification is current.
 - Review and develop specific, job-related qualification standards for each position that reflect the duties, functions, and competencies of the position and minimize the potential for gender stereotyping and other unlawful discrimination.
 - Use structured interview, where the same questions are asked of all applicants for a particular job or category of job and inquiring about matters directly related to the position in question.
- B. Discuss your current protocol for use of the NYCAPS Applicant Interview Log reports to identify applicants by gender and race/ethnicity.
- The agency does not use the NYCAPS Applicant Interview Log Report.
 - The agency will schedule orientation with NYCAPS Central.
 - The agency will use the Applicant Interview Log Report to track applicant sources and identify the best sources of applicants.
- C. Discuss all planned steps taken to identify barriers to entry for positions and actions under consideration to address such barriers.
- Identify at least two or three people from diverse gender and racial\ethnic backgrounds to review received applications and conduct the interviews.
- D. When identifying groups of subject matter experts to assist the DCAS test development team, please describe efforts that will be taken to select a diverse and inclusive group of individuals.
- The agency will identify a diverse group of subject matter experts (e.g. race, gender, age, assignments location, etc.) when requested by DCAS.
 - The agency will use objective job-related criteria to identify the subject matter experts who will participate in test development.
 - The agency will make an effort to ensure different staff members are given the opportunity to participate in test development.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

Additional Comments:

NYCERS uses its own Application interview Log.

Additionally, NYCERS is a very diverse agency and interviews are conducted by various supervisory or managerial employees as determined appropriate for each recruitment. Because of the diversity that already exists, there is a high likelihood that most interview panels will be comprised of people from diverse backgrounds.

The agency was recently asked to identify a diverse group of subject matter experts by DCAS to help formulate a test for a civil service title frequently used by NYCERS. The agency provided DCAS with a diverse group of 30 employees for this project.

5. Briefly detail which stages of selection involve your EEO Officer (pre- and post-selection).

In FY 2020, the agency EEO Officer will do the following:

PRE-SELECTION:

- Collaborate with the Director of Human Resources to ensure that an updated listing of sources for diverse applicants, including schools and professional organizations, is maintained.
- Actively monitor agency job postings.
- In collaboration with the Director of Human Resources, review interview questions to ensure that they are EEO-compliant, job-related, and required by business necessity.
- Provide feedback to the hiring manager after the EEO Officer's assessment.
- Assist the hiring manager if a reasonable accommodation is requested during the interview.
- May observe interviews when necessary, especially for underutilized job titles and/or mid- and high-level discretionary positions.
- Other: _____

POST-SELECTION:

- Periodically review candidate evaluation forms and conduct a job applicant analysis via the NYCAPS eHire Applicant Interview Log reports to advise Human Resources of any demographic trends and/or EEO concerns.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

Review hiring package for review and approval.

Other: _____

Additional Comments:

6. During periods of layoffs, terminations and demotions due to legitimate business/operational reasons, what is your protocol for analyzing the impact of such actions based upon gender, race and age? It is most useful to conduct this analysis prior to finalizing the list of titles that will be impacted. Ensure that the agency Counsel and the Law Department are involved in the review.

The agency will use the DCAS Layoff Procedure as guidance, should there be any layoffs, terminations and demotions due to legitimate business/operational reasons in FY 2020.

The agency will analyze the impact of layoffs or terminations on racial, gender and age groups.

Where layoffs or terminations would have a disproportionate impact on any of these groups, the agency will document that the targeted titles or programs were selected based on objective criteria and justified by business necessity.

The Agency Personnel Officer, EEO Officer and General Counsel will be involved in making layoff or termination decisions. It should be noted that layoffs must be conducted by seniority in compliance with civil service law (for competitive titles) and union contract (for non-competitive and labor class titles).

Layoffs, termination and demotions are accomplished based on civil service law and collective bargaining agreements.

VII. Training

Training Topic	Type of Audience (e.g. Front-Line Staff, Managers, Supervisors, etc.)	Target Number of Participants	Targeted Dates
1. EEO Awareness (e-learning)			
2. EEO Awareness (classroom)			

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

3. Everybody Matters (D&I) (classroom)			
4. Everybody Matters (D&I) (e-learning)			
5. Sexual Harassment Prevention (e-learning)			
6. Sexual Harassment Prevention (classroom)			
7. Disability Etiquette			
8. Structured Interviewing and Unconscious Bias (classroom)	EEO Officers	3	2019
9. Other (specify) <ul style="list-style-type: none"> • Reasonable Accommodations 	EEO Officers	1	October 2019

VIII. Reasonable Accommodation

Please indicate the actions your agency will take to ensure that the process of reviewing reasonable accommodation requests is compliant with the EEO Policy as well as the applicable federal, state, and local laws. Additionally, please detail any best practices currently implemented in this area. Lastly, please describe your current appeal protocol.

- Managers, supervisors, human resources personnel and discipline personnel are required to report to the EEO Office any reasonable accommodation requests and needs that are received, observed, learned about or suspected, so that the EEO Office may facilitate discussions, research appropriate accommodations, and assist with the resolution of the matter.
- The agency provides reasonable accommodation for disability, religion, victims of domestic violence, sex offense and stalking, pregnancy, childbirth or a related medical condition.
- The agency grants or denies request 30 days after submission or as soon as possible.
- The agency head or designee¹ must review and grant or deny the appeal fifteen (15) days after submission of appeal. If NOT the agency head, please provide the name and title of the designee: _____

¹ EEO Officer and General Counsel should **NOT** be appointed as agency head designee. Note conflict of interest, i.e., that in the case of an external challenge to the denial of a reasonable accommodation, the agency's GC would be tasked with defending the agency against a decision in which that office was a

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

- The agency follows the City's Reasonable Accommodation Procedure.
- The agency will input the Reasonable Accommodation activity on the DCAS Citywide Complaint and Reasonable Accommodation Tracking System and update the information as they occur.
- The agency analyzes the reasonable accommodation data made at the agency.

Describe procedures and speed of resolution, including the protocol for deciding appeals of Reasonable Accommodation decisions. Does the agency analyze statistics with regard to volume, trends, and speed of disposition of EEO complaints and reasonable accommodation requests and appeals?

All EEO Complaints and Reasonable Accommodations are entered into the complaint tracking system immediately following the intake interview with the Complainant(s). Updates are entered before the last day of each quarter e.g. 3/31, 6/30, 9/30, and 12/31. An electronic affirmation about each review and entry is sent to DCAS. NYCERS keeps statistics on volume, trends, and speed of disposition of all EEO Complaints, Reasonable Accommodations, and appeals.

IX. Compliance and Implementation of Requirements Under Executive Orders and Local Laws

A. Executive Order 16: Training on Transgender Diversity and Inclusion

Under Executive Order No. 16 of 2016, the agency must provide supervisory and front-line staff training approved by DCAS on transgender diversity and inclusion. Pursuant to Executive Order No. 16, the training must be provided to all newly hired supervisory and managerial employees and line staff whose work tasks involve contact with the public.

- The agency plans to train all new employees within 30 days of start date.
- All the front-line supervisors, managers and employees were re-trained during FY 2019.
- All managers\supervisors will be re-trained by March 7, 2021.
- All front-line employees will be re-trained by March 7, 2020.

Training Topic	Type of Audience	Target Number of Participants	Targeted Dates

decision maker on appeal. Refer to the revised Guidelines indicating that neither the EEO Officer nor GC may serve as the agency head's designee found at:

<http://extranet.dcas.nycnet/eoo/diversityeoo/media/19647/reasonable-accommodation-procedural-guidelines-lc-12116.pdf> (p17).

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

lgbTq – Power of Inclusion (classroom)	Supervisors		
	Front Line Staff		
lgbTq – Power of Inclusion (e-learning)	Supervisors	50	2021
	Front Line Staff	442	2020

- The agency will ensure that the Transgender Restroom Access notice/poster is posted where required, e.g., on bulletin boards, near restrooms and, in digital form, where other EEO notices and announcements can be found.

Additional Comments:

B. Executive Order 21 (2016): Prohibition on Inquiry regarding Job Applicant’s Pay History

- The agency has reviewed its practices (including application and interview forms) with regards to prohibition on inquiry regarding pay history.
- All personnel involved in job interviews will be required to go through Structured Interviewing and Unconscious Bias Training.

Additional Comments:

C. Local Law 92 (2018): Annual Sexual Harassment Prevention training

- The agency plans to train all new employees on Sexual Harassment Prevention within 30 days of start date. Current employees will be trained annually.

Training Topic	Type of Audience	Target # of participants	Targeted Dates
1. Sexual Harassment Prevention (classroom)			
2. Sexual Harassment Prevention	Employees, consultants, interns, part-timers, temps	468	November 2019

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

(e-learning)		
--------------	--	--

Additional Comments:

D. Local Law 93 (2018): Risk Assessment Survey & Initiatives to reduce/minimize risk of sexual harassment.

Please provide a summary of agency initiatives to address the risk of sexual harassment and devise responsive strategies to minimize such risk. Please refer to the risk assessment survey conducted in 2018 and indicate if the initiatives were completed or are continuing.

	Initiative(s)	Who is Responsible for implementing the initiative(s)?	Timeframe\Timeline
Risk 1 Homogenous Workplace	NYCERS is committed to EEO diversity at work place. NYCERS has a diverse workforce at all levels with respect to age, race/ethnicity, gender or sex.	Human Resources	<u>Ongoing</u> <input checked="" type="checkbox"/> <u>Completed</u> <input type="checkbox"/>
Risk 2 Cultural and Language Differences in the workplace	NYCERS senior leaders actively promote a diverse and inclusive culture through mandatory training, issuance and distribution of EEO policies, various annual events organized by the Quality Work Life (QWL) committee and employee-engaging activities and initiatives such as “Making NYCERS	Organizational Development & Training Security & Facilities Operations QWL Committee	<u>Ongoing</u> <input checked="" type="checkbox"/> <u>Completed</u> <input type="checkbox"/>

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

	A Great Place to Work”.		
Risk 3 Workplaces with Significant Power Disparities	NYCERS Sexual Harassment policy strictly requires that a manager/ supervisor reports complaints of Sexual Harassment to an EEO Officer or HR. Additionally EEO Compliance is included and rated in every Manager’s Performance Evaluation	All Managers & Supervisors	<u>Ongoing</u> <input checked="" type="checkbox"/> <u>Completed</u> <input type="checkbox"/>
Risk 4 Isolated Workplaces	NYCERS does not have isolated workspaces or environments. Most NYCERS workspaces are designed with an open space plan.	Security & Facilities Operations	<u>Ongoing</u> <input checked="" type="checkbox"/> <u>Completed</u> <input type="checkbox"/>
Risk 5 Decentralized Workplaces	NYCERS has two centralized locations in Brooklyn and Long Island City. In each location, supervisor and managers are physically located next to employees and are readily available to address employees’ concerns. In addition all NYCERS employees are required to complete	All Managers & Supervisors Security & Facilities Operations	<u>Ongoing</u> <input checked="" type="checkbox"/> <u>Completed</u> <input type="checkbox"/>

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

	mandatory EEO, Sexual Harassment Prevention Diversity and Inclusion and Code of Conduct training.		
Other Findings			<u>Ongoing</u> <input type="checkbox"/> <u>Completed</u> <input type="checkbox"/>

E. Local Law 97 (2018): Annual Sexual Harassment Reporting

The agency will input sexual harassment complaint data on the DCAS Citywide Complaint Tracking System, contemporaneously update the information, and affirm the data in a timely manner when requested by DCAS.

The agency will input **all types of complaints** in the complaint data on the DCAS Citywide Complaint Tracking System, contemporaneously update the information, and affirm the data in a timely manner when requested by DCAS.

The agency will ensure that complaints are closed within 90 days.

Additional Comments:

F. Local Law 101 (2018): Climate Survey

Describe how additional insights gained from the analysis of the citywide Climate Survey will influence your agency workforce/workplace/community initiatives.

The agency, in collaboration with DCAS, has conducted a climate survey and:

analyzed results of the response data sent by DCAS.

implemented the following initiatives to address concerns raised in the Climate Survey:

_____ Agency submitted an action plan on March 5th. See below.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

The agency will provide a report to DCAS on the above initiatives by January 31, 2020.

[NOTE: DCAS is mandated to submit a report on Action Plan to the Mayor and the Speaker of the Council].

Additional Comments:

NYCERS' action plans in response to the Climate Survey are included in the Addendum to the plan on page 28.

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

X. Audits and Corrective Measures:

Please choose the statement that applies to your agency.

- The agency is NOT involved in an audit conducted by NYC EEPC or another governmental agency specific to our EEO practices.
- The agency is currently being audited or preparing responses to an audit conducted by the EEPC or [_____ **another governmental agency – please specify**] specific to our EEO practices. Upon forwarding our responses to the recommendations issued by the EEPC, the agency will submit to OCEI an amendment letter, which shall amend the agency plan for FY 2020 to include and implement EEPC recommendations that will be implemented during the fiscal year.
- The agency is subject to any other oversight or review by a federal, state or city civil rights agency [please specify _____].
Attach a copy of the document setting out the oversight parameters and the agency’s most recent report to the oversight agency.
- The agency was involved in an audit conducted by the EEPC or [_____ **another governmental agency – please specify**] specific to our EEO practices. This agency will continue/be required to implement measures during the year that this plan is in effect (please attach a copy of the audit findings.)

NOTE: Final Agency Head’s signature and date should be set only after you receive DCAS’ approval of the plan.

Melanie Whinnery

Print Name of Agency Head

DocuSigned by:
Melanie Whinnery
B074B99D84E14FB...

Signature of Agency Head

7/22/2020

Date

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

APPENDIX Contact Information

Please provide contact information (name, title, office address, telephone number and e-mail address) for the following individuals at your agency:

1. Agency EEO Officer

- | | | |
|----------------------------|--------------|--|
| • Sabrina Hayat | 347 643-3465 | shayat@nycers.org |
| • Craig Thornton | 347 643-3430 | cthornton@nycers.org |
| • Badar Malik | 347 643-3581 | bmalik@nycers.org |
| • Melinda Brundidge Watson | 347 643-3422 | mbwatson@nycers.org |

2. Agency Chief Diversity & Inclusion Officer [if designated]

- | | | | |
|------------------------------------|-----------------|--------------|--|
| 3. ADA Coordinator | Sabrina Hayat | | |
| 4. Disability Rights Coordinator | Sabrina Hayat | | |
| 5. Disability Services Facilitator | Sabrina Hayat | | |
| 6. 55-a Coordinator | Dietra Williams | 347 643-3469 | dwilliams@nycers.org |
| 7. Career Counselor(s) | Dietra Williams | | |
| 8. Training Liaison(s) | Ellen Carton | 347 643-3545 | ecarton@nycers.org |

NYCERS FY 2020 DIVERSITY AND EQUAL EMPLOYMENT OPPORTUNITY PLAN

NYCERS-EEO ACTION PLAN

The agency already implemented and is actively engaged in the following initiatives:

- Informing employees of the EEO policies, complaint process and protections that may encourage employees to report any form of discrimination. NYCERS' is committed to the City of New York's Equal Employment Opportunity (EEO) Policy. It is NYCERS' policy to recruit, employ, retain, and promote without regard to race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, marital status, partnership status, disability, genetic information, alienage, citizenship, military or veteran status, pregnancy, status as victim of domestic violence, or any other legally prohibited basis in accordance with federal, state, and city laws. The agency is committed to maintaining a workplace free from all forms of harassment and discrimination prohibited by the City's EEO Policy. The EEO Policy further prohibits retaliation for making an EEO related complaint or request.
- EEO training is incorporated with agency training throughout the year as a refresher to ensure all employees are reminded of their responsibilities & protections afforded for reporting. This approach helps mitigate risk of sexual harassment in the workplace, specifically in our LIC workplace.
- The Executive Director has prepared an agency wide email identifying and supporting NYCERS EEO officers and reminding the agency that the employees are our greatest asset and we are committed to recruitment, development and retention of a diverse and inclusive workforce reflective of our City's population.
- All employees are encouraged to refer to the EEO Policy Handbook and the Citywide Handbook, "About EEO: What You May Not Know," both of which are available through the EEO link on the Intranet homepage. NYCERS ongoing mission is to promote a safe, bias-free workplace. EEO materials are posted throughout the agency.

Exhibit 1

**EEPC Preliminary Determination
(Internal Appendices Omitted)**



Sasha Neha Ahuja
Chair

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

Charise L. Terry
Executive Director

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

November 29, 2019

Melanie Whinnery
Executive Director
NYC Employees' Retirement System
335 Adams St., Suite 2300
Brooklyn, New York 11201

Re: NYC Employees' Retirement System
Evaluation of Sexual Harassment Prevention and Response Practices
Audit Period: January 1, 2017 to December 31, 2018
Determination: **PRELIMINARY**

Dear Executive Director Whinnery:

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 NYC Employees' Retirement System'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 NYC Employees' Retirement System, 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 NYC Employees' Retirement System on January 31, 2019; the completed PIQ(s) were returned on February 25, 2019. Supporting documentation was attached. Additional requests for information were made on March 8, 2019.

The following determination indicates where the NYC Employees' Retirement System 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 New York City Employees' Retirement System (NYCERS) was founded by the New York State Legislature in 1920. The prime function of the New York City Employees' Retirement System is to administer the statutory pension benefits of its members, retirees, and beneficiaries. The NYCERS is administered by a Board of Trustees and chaired by a representative appointed by the Mayor. Such representative is entitled to cast one vote. In addition, the City Public Advocate and City Comptroller each cast one vote and each of the five borough presidents casts a one-fifth vote. Membership also includes three public employee representatives; each entitled to cast one vote. The Board of Trustees appoints the NYCERS Executive Director. (Source: The Green Book, 3/2019). At the end of the period in review, NYCERS workforce was comprised of 437 employees².

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. SHPRA - 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.

✓ NYCERS issued an EEO policy statement to employees via email each year of the period in review. The 2017, 2018 and 2019 Policy statements each reiterated, "[i]t is NYCERS policy to recruit, employ, retain, and promote without regard to race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, sexual orientation, gender, gender identity, marital status...or any other legally prohibited basis in accordance with federal, state, and city laws."

In addition, on May 25, 2018 NYCERS Executive Director sent the entity's *Sexual Harassment Policy Statement*³ to all employees via email. The *Sexual Harassment Policy Statement* asserted, "[s]exual harassment is a form of employment discrimination prohibited by the EEO Policy and law. All NYCERS 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."

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.

² Citywide Equal Employment Database System (CEEDS) Report: *Work Force Composition Summary*, attached as **Appendix 1**.



✓ NYCERS Executive Director's annual policy statements (referenced in §I.1) included either links to or directions on how to access the following documents via the agency's electronic shared drive or the "EEO Link on the intranet homepage": *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies, 2014*⁴ (EEO Policy); *EEO Complaint Procedural Guidelines, City of New York, 2016*⁵ (Complaint Procedures); and the EEO policy handbook: *About EEO: What You May Not Know*. In addition, NYCERS reported that the EEO policy handbook: *About EEO: What You May Not Know* was distributed in hard copy to new employees during orientation that was conducted quarterly during the period in review by the principal EEO Professional.

NOTE: 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. NYCERS should discontinue its distribution of the *EEO Complaint Procedural Guidelines, City of New York, 2016* and ensure that all links to this document, within other documents and on its intranet, are replaced with links to the most current version of this document, *EEO Compliant Procedural Guidelines, City of New York, 2018* that includes the current address for New York City Commission on Human Rights and other pertinent information.

II. SHPRA - 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.

✓ A Department of Citywide Administrative Services (DCAS) training report indicates that 95% of NYCERS employees (or 416 of 437) completed Sexual Harassment Prevention computer-based training entitled *What to Know About Unlawful and Inappropriate Behaviors in the Workplace*, as of December 31, 2018. The *Sexual Harassment Prevention* computer-based training included a definition of sexual harassment; gave examples of appropriate and inappropriate fraternization; explained the laws prohibiting sexual harassment; explained how to file a complaint of sexual harassment; and explained what can be done to prevent sexual harassment. In addition, because of an anonymous complaint regarding sexual harassment, NYCERS conducted in-house sexual harassment training for a specific group of 62 employees in May 2018. The EEO Professional who conducted the training reported to the agency head via interoffice memorandum that "[i]n my training, I explained the definition of sexual harassment under Federal Law and discussed examples of behavior that is inappropriate for the workplace. I also emphasized that employees with complaints or concerns should reach out to a supervisor, an EEO Officer, or Human Resources."

III. SHPRA - Complaint and Investigation Procedures

Summary of Complaint Activity: The agency reported **4** internal and **0** external complaints were filed during the period in review. In response to the EEPC's request NYCERS submitted its last 4 completed internal

⁴ Attached as [Appendix 2](#)

⁵ Attached as [Appendix 3](#)



Complaint Files Nos: 2017-01, 2018-01, 2018-02 and 2018-03. The findings in this section are based on the examination of those complaint files as well as the entity's EEO Policy and Complaint Procedures.

Determination: The agency is in partial-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.

✓ NYCERS *Complaint of Discrimination* form provided space to capture: *names (of the complainant and respondent); Case No.; Date Filed; Complaint of Discrimination; What is the Alleged Basis of Discrimination (Check All That Apply); When Did the Alleged Discrimination Occur?; Where Did It Happen?; Were There Witnesses to the Discrimination?; Did You Report This Incident to Anyone? If So, Please State the Name, Title and Unit/Division of the Person to Whom You Reported It.; Have you Filed A Complaint About the Alleged Discrimination with Any of the Following Agencies? If So, Please State the Date and Number of the Complaint;* and provided space to sign under a statement that certified the accuracy and truthfulness of the statements made.

Each complaint file included either a completed complaint form or written complaint that captured the facts of the case, the dates (of the complaint and the incident), identified the respondent (where applicable), and provided the essence of the circumstances that gave rise to the complaint. Specifically, Complaint file No. 2017-01 contained a completed *Complaint of Discrimination* form; Complaint file No. 2018-01 contained complaints that were submitted via email and Complaint files No. 2018-02 and 2018-03 each contained a memorandum to the EEO Office which provided the statements made during conversations with a human resources (HR) Professional that allege violations of the EEO policy.

NOTE: NYCERS *Complaint of Discrimination* form did not contain an up-to-date list of protected classes and should be updated. Specifically, the *What is the Alleged Basis of Discrimination* list did not include: *Credit History; Caregiver Status; Gender Identity; Status as a Victim of Domestic/Sexual Violence, or Stalking; Unemployment Status; and Status as a Veteran or Active Military Service Member.*

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 Complaint Procedures that stated, "[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."

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 *Notice to Respondent of the Complaint* section of the Complaint Procedures stated, "[t]he EEO Office must serve Respondent with a notice of complaint along with a redacted copy of the complaint or summary of 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”, and “[i]nform Respondent of the right to respond in writing to the complaint, and that the response should be submitted as soon as possible.”

➤ Complaint files Nos. 2018-01, 2018-02 and 2018-03 did not contain documentation that the respondents were served with notices of their respective complaints, informed of their right to respond to respond to the complaints or the right to be accompanied by a representative. **Corrective Action Required.**

NOTE: Complaint file No. 2017-01 included a *Determination Memo* that administratively concluded the investigation rendering this step unnecessary.

Corrective Action #1: 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.

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

✓ Because none of the complaints were terminated, withdrawn or resolved by agreement of the parties or the EEO Office, the entity’s Complaint Procedures were reviewed to determine compliance with this standard. The *Mediation* section of the Complaint Procedures stated, “[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.” Furthermore, section III(C) of the EEO Policy 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 stated, 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.

✓ Complaint files Nos. 2017-01, 2018-01, 2018-02 and 2018-03 each contained word processed notes from interviews conducted during the complaint investigations.

➤ The interview notes for Complaint No. 2018-01 did not contain the name or title of the person conducting the interview or the name and title of the person being interviewed and did not include the questions asked. Interview notes should be as thorough and detailed as possible to maintain the integrity of the complaint investigation. **Corrective Action Required.**

Corrective Action #2: Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.



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.

✓ The *Investigation* section of the Complaint Procedures stated, "[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."

The conclusive reports for Complaints Nos. 2018-01, 2018-02 and 2018-03 were issued within 90 day of the date the initial complaint was filed. Documents in the complaint file indicate that the investigation by the EEO Professional commenced upon receipt of the complaint.

NOTE: In lieu of a conclusive report, Complaint file No. 2017-01 included a *Determination Memo* that administratively concluded the investigation within 90 days of the date the complaint was filed.

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.

✓ Because each of the complaint investigations were concluded within 90 days of the date the complaints were filed, the entity's Complaint Procedures were reviewed to determine compliance with this standard. The *Investigation* section of the entity's Complaint Procedures stated, "[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."

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 Complaint Procedures 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."

The conclusive report (a memorandum addressed to the Agency Head) for Complaint No. 2018-01 included a summary of the allegations, a statement of the relevant facts gathered, a determination and recommendation. As documentation of the Agency Head's review, Complaint file No. 2018-01 contained a memorandum to file from the investigating EEO Professional (dated 4 days post conclusive



report) which stated that a meeting with the Agency Head to discuss the matter occurred (date not specified), at which a conclusion was reached that no further action would be taken at that time. The conclusive reports (memoranda addressed to the Agency Head) for Complaint Nos. 2018-02 and 2018-03 included a summary of the allegations and responses, a statement of the relevant facts gathered, a determination, and a recommendation.

➤ The conclusive report (a memorandum addressed to the Agency Head) for Complaint No. 2018-01 did not include a summary of the responses to the allegations. Complaint file Nos. 2018-02 and 2018-03 did not contain documentation of the Agency Head's review. **Corrective Action Required.**

Corrective Action #3: 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.

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.

✓ NYCERS reported that complaint files were maintained in a secured electronic file/folder.

➤ NYCERS did not demonstrate that complaint files were maintained in a manner that ensured accessibility to the agency head, agency general counsel, and other appropriate staff identified by the agency head. **Corrective Action Required.**

Corrective Action #4: 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.

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.

✓ The Complaint Procedures stated, "[a]fter all the relevant facts have been gathered, the EEO Officer must prepare a confidential report on the complaint investigation and must submit the report to the Agency Head for review... [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." Additionally, the EEO Policy stated, "[t]he EEO Officer will submit a confidential report of the complaint investigation to the Agency Head at the conclusion of the investigation... 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 conclusive report memorandum for each complaint (2018-01, 2018-02 and 2018-03) was addressed to the agency head. In addition, Complaint file No. 2018-01 contained a memorandum to file from the investigating EEO Professional (dated 4 days post conclusive report) that stated a meeting



with the agency head occurred (date not specified) “...where this matter was discussed. We concluded that no further action should be taken at this time”.

➤ The Complaint file Nos. 2018-02 and 2018-03 did not contain indication of the Agency Head’s (or an approved direct report other than the General Counsel) review of the principal investigator’s conclusive reports. Complaint files Nos. 2018-01, 2018-02 and 2018-03 did not include the Agency Head’s written/electronic determination adopting, rejecting, or modifying the recommended action; or written or electronic signature indicating it had been reviewed and adopted. **Corrective Action Required.**

Corrective Action #5: 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.

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.

✓ The *Informing Parties of Outcome* section of the Complaint Procedures 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.” Additionally, the EEO Policy stated, “[t]he EEO Officer will advise all parties in writing of the outcome of a complaint.”

Complaint file Nos. 2017-01 and 2018-01 each contained a copy of the memorandum sent to the complainants informing them of the conclusion and outcome of their respective complaint investigations.

➤ Complaint file No. 2018-01 did not contain documentation that the respondent was informed of the conclusion and outcome of the complaint investigation in writing. Complaint file Nos. 2018-02 and 2018-03 did not contain documentation that the complainants or respondents were informed of the conclusion and outcome of their respective complaint investigations. **Corrective Action Required.**

NOTE: Complaint file No. 2017-01 included a *Determination Memo* that administratively concluded the investigation, which rendered informing the respondent of the conclusion and outcome unnecessary.

Corrective Action #6: Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency’s complaint procedure.

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

✓ The *Confidentiality and Record Keeping* section of the Complaint Procedures stated, “[a]ll complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office.”



Complaint file Nos. 2018-01, 2018-02 and 2018-03 contained a written determination of the outcome and corrective action(s) taken as a result via the conclusive reports. Complaint file No. 2017-01 contained a written determination of its outcome via a *Determination Memo*.

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.

✓ Because none of the complaints were transferred due to the filing of an external complaint the entity's Complaint Procedures were reviewed to determine compliance with this standard. The Complaint Procedures 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." Additionally, the EEO Policy stated, "[t]he 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."

NOTE: Complaint file No. 2018-03 contained documentation that pertained to two other matters, one of which referenced an external complaint. 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.

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.

✓ NYCERS utilized an electronic complaint tracking system, CEEDS that permitted the entity to track and identify the *location* (where incident occurred), *status*, the *bases of the complaints*, the *total respondents*, *total complainants*, *days outstanding*, *days since filing*, the *aggrieved individual(s)*, *external filing date*, *external filing location*, *final disposition description*, *final disposition date*, and *remedy*. In addition, the Compliant Procedures required "[a]ll EEO complaints are to be entered in the complaint tracking system before the end of the quarter".

➤ NYCERS did not demonstrate that it consistently utilized its complaint tracking system as the complaint tracking system summary provided did not include all complaints investigated during the period in review. **Corrective Action Required.**

NOTE: The EEPC recommends that the complaint tracking system be updated as close to real-time as possible to ensure accurate tracking of complaints and to analyze complaint activity to identify trends.

NOTE: EEPC recommends that each complaint file be assigned a unique file number that should be printed on each document within the complaint file to ensure and maintain the integrity of the complaint investigation. This may be accomplished by utilizing the numbers automatically assigned to each complaint when entered into the entity's complaint tracking system.

Corrective Action #7: 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.

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.

✓ NYCERS' *Agency Risk Assessment*⁶ completed in 2018, which was signed by the General Counsel and the Agency Head, assisted the Agency Head in identifying and determining appropriate responses to sexual harassment (see § IV.19). In addition, during the period in review, the General Counsel met with NYCERS EEO Professionals on an annual basis to discuss the entity's statistical information, employment practices, policies and programs. Emails demonstrate that the General Counsel assisted the principal EEO Professional in determining the appropriate responses to complaint investigations including those referenced in § III. of this report. In addition, in response to the EEPC PIQ, NYCERS reported that the General Counsel collaborated with the principal EEO Professional regarding *the creation of the entity's sexual harassment prevention procedures, policies, and programs.*

NOTE: NYCERS reported no external complaints during the period in review, therefore the General Counsel's responsibility to investigate and respond to external sexual harassment complaints and to inform the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency could not be meaningfully measured for the period in review.

IV. SHPRA - 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.

✓ During the period in review, NYCERS held annual meetings with the General Counsel, EEO Professionals, the Director of HR and the Career Counselor to discuss the entity's statistical information, employment practices, policies and programs to identify whether there were barriers to employment opportunities and determine what, if any, actions were required to correct deficiencies. The following topics were indicated on the 2017 meeting agenda: *workplace speech policy, EEO Compliance-Monitoring* (as a result of EEPC's 2017 audit of the entity); *corrective actions* (for areas identified by the EEPC as non-compliant), EEO training for EEO Professionals, and meeting with the newly appointed Executive Director. The 2018 meeting agenda included the following topics: *review*

⁶ Local Law 93 of 2018 requires city agencies to assess workplace risk factors associated with sexual harassment via an *Agency Risk Assessment* in order to help provide a fair and safe work environment for all city workers.



of interview totals, and promotion stats (summary of statistics, promotions and separations), agency-wide training, and training for an EEO Officer. In addition, NYCERS' *Agency Risk Assessment* completed in 2018, examined workplace risk factors associated with sexual harassment such as *homogenous workplace, cultural and language differences in the workplace, workplaces with significant power disparities, isolated workplaces, and decentralized workplaces*. The assessment concluded that none of these conditions increased the risk of sexual harassment. NYCERS stated, "although the above conditions do not increase the risk of sexual harassment, potential strategies to further reduce the overall risk of sexual harassment can include increased EEO training... where employees of all levels participate in order to share different points of view."

NOTE: NYCERS reported 4 internal complaints during the period in review (1 in 2017 and 3 in 2018). A review of the number of sexual harassment complaints to identify trends was therefore impractical.

V. SHPRA - Responsibility for Implementation - EEO Professionals

Determination: The agency is in partial-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.

✓ During the period in review NYCERS *Deputy General Counsel* served as the entity's principal EEO professional. Certificates of completion demonstrate that the principal EEO Professional completed Cornell University ILR School's *Employee Internal Investigations: Part 1* in October 2017 and the following trainings presented by DCAS: *Workplace Realities: Responding to People with Disabilities* in October 2015 and May 2016; *Everybody Matters* in November 2017; *Reasonable Accommodation Procedural Guidelines* in October 2018; and *Structured Interviewing and Unconscious Bias* in December 2017 and February 2019.

NOTE: Subsequent to the period in review, NYCERS appointed a new principal EEO Professional. Certificates of completion indicate they completed the following EEO related trainings in 2019: *2nd Annual Employment Law Institute for City Lawyers*; *Building and Inclusive Culture: Understanding Unconscious Bias*; *Structured Interviewing and Unconscious Bias*; *Reasonable Accommodation Procedural Guidelines*; *Conflict Resolution Strategies for the Culturally Diverse Workplace*; and *Building Better Work Relationships: New Techniques for Results-Oriented Communication*.

➤ NYCERS did not demonstrate that the current 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.

Corrective Action Required.

Corrective Action #8: 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.



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.

✓ To ensure that the responsibilities of the principal EEO Professional were competently discharged, NYCERS appointed two additional EEO Professionals (EEO Officers) to receive complaints, conduct complaint investigations, distribute and post EEO and related policies, and conduct training as necessary. Additionally, opportunities for continuing education and professional development were available to NYCERS EEO Professionals via DCAS Citywide Training Center (see §§ V.20 and V.22).

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.

✓ During the period in review, NYCERS workforce was comprised of 437 employees in two office locations. EEO Professionals were selected from different levels within the organizational structure as each served dual roles: the principal EEO Professional was also the entity's Deputy General Counsel, one EEO Officer also served as the Director of Security & Facilities Operations and the other EEO Officer also served as the entity's Deputy Director of Administrative Services. Training certificates demonstrate that both EEO Officers received training in EEO laws and procedures and their responsibilities under the EEO Policy.

In May 2012, the EEO Officer/Director of Security & Facilities Operations completed a 5-day *Diversity and Equal Employment Opportunity Basic Training* (for EEO Professionals); as well as *Training on Effective Complaint Investigations* and *How to Handle Challenging Situations* in May 2012 (all presented by the DCAS Citywide Diversity and Equal Employment Opportunity Office (currently known as the Office of Citywide Equity and Inclusion (OCEI)); an *EEO New York Seminar* in June 2015 presented by the U.S. Equal Employment Opportunity Commission (EEOC); DCAS *Equal Employment Opportunity* computer-based training in August 2016 and DCAS *Structured Interviewing and Unconscious Bias* in December 2017.

The EEO Officer/Deputy Director of Administration completed *Tanenbaum's: Religious Diversity Leadership Summit* in May 2018; the U.S. EEOC's *EEO Training for New Investigators* in June 2018; and two trainings presented by DCAS: *Sexual Harassment Prevention* computer-based training, in July 2018 and *Everybody Matters* in February 2019.

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.

✓ During the period in review, the principal EEO Professional worked cooperatively with the General Counsel while conducting the annual *Agency Risk Assessment*, which examined risk factors that may be associated with sexual harassment, and during the entity's annual *General Counsel Meeting* (held in August 2017 and October 2018) to review the entity's statistical information, employment practices, policies and programs (as detailed in §IV. 19). In addition, documentation within a complaint file indicates that EEO worked with Legal in handling the complaint investigation.



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.

✓ NYCERS' Executive Director annually distributed a sexual harassment/EEO policy statement that included links to the entity's EEO Policy and Complaint Procedures as well as directions on how to access those documents on the entity's intranet site and electronic shared drive. NYCERS' organization chart indicated that each EEO Professional had direct reporting relationships to the agency head. In May 2018, the principal EEO Professional conducted in-house sexual harassment prevention training (see § II.3). The principal EEO Professional's task and standards during the period in review included "*counsel with employees and report to the General Counsel or Director of Human Resources when needed to report and make recommendations.*" Documentation within the complaint file indicates that the investigation by the principal EEO Professional commenced upon receipt of the complaint.

➤ NYCERS did not demonstrate that the principal EEO Professional (or EEO-related designee) had the responsibility to ensure that managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment. **Corrective action required.**

NOTE: NYCERS reported that there were no requests for policies in alternate formats during the period in review, however if such a request is made, Human Resources would be responsible for contacting a third-party vendor to satisfy the request.

Corrective Action #9: 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.

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.

✓ The NYCERS organization chart identified the principal EEO Professional by name and title (*EEO Officer*) and indicated a direct reporting relationship to the Executive Director (agency head).

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.



✓ A June 13, 2017 memorandum summarized the topics discussed at the 2017 meeting that listed all EEO Professionals and the Executive Director as attendees. A similar memorandum for 2018 and 2019 were also provided to the EEPC to demonstrate how directives or decisions between the agency head and the principal EEO Professional were documented during the period in review.

VI. SHPRA - Responsibility for Implementation – Supervisors/Managers

Determination: The agency is in 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.

✓ NYCERS documented its expectations for supervisory personnel within its employee handbook which included: (1) *[b]ecause of the inherently coercive nature of a sexual relationship between a superior and a subordinate, no superior/manager/supervisor at NYCERS shall have any sexual contact with a subordinate.* (2) *[e]mployees may not by promise or innuendo, or otherwise, directly or indirectly (i) insinuate to an employee that in exchange for an intimate or other private relationship the employee's working conditions or terms of employment may be affected, or (ii) pressure a subordinate to enter into such a relationship, and (3) [i]n addition, the City's Conflicts of Interest rules prohibit superiors/managers/supervisors and subordinates from entering into any financial or business relationship, such as sharing apartment or vacation expenses.* Additionally, NYCERS provided a copy of its *Management Competencies* document, which outlined fourteen subject areas of managerial proficiencies that included: *Effectiveness(sic) Use of Resources, Maintains Currency of Work Skills and Knowledge, and EEO Compliance.* The *EEO Compliance* proficiency included the following standards: *ensuring that employment decisions are based on merit and equal consideration; ensuring that hiring decisions are made in compliance with EEO and city hiring standards; ensuring all individuals (employees, customers, and other stakeholders) are treated in an equitable and impartial manner; Adhering to organization's core values and acting in line with those values; and maintaining a work environment free of discrimination and harassment by reinforcing policies in staff meetings, memo's, and personal actions, and creating a climate in which people want to do their best.*

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).

✓ NYCERS *Managerial Competencies, July 2017*, that stated, "*EEO Compliance must be in every Evaluation*" set forth the following standards for EEO compliance: "*[e]nsuring that employment decisions are based on merit and equal consideration; [e]nsuring individuals are treated in an equitable and impartial manner; [m]aintaining a work environment free of discrimination and harassment by reinforcing policies in staff meetings, memos, and personal actions.*" NYCERS provided completed managerial evaluation forms from the 2016-2017 and 2017-2018 evaluation periods to demonstrate administration of the evaluation program.



VII. SHPRA - Reporting Standard for agency head

Determination: The agency is required to comply 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.

✓ NYCERS submitted to the EEPC its Annual Plan of measures and programs to provide equal employment opportunity for fiscal year 2018, 2019 and 2020.

NOTE: As a non-mayoral agency NYCERS is not required to submit quarterly EEO reports on efforts to implement its annual plan.

30. **FINAL COMPLIANCE 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.

FINAL COMPLIANCE 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 NYC Employees' Retirement System has 9 required corrective action(s) at this time. This includes the aforementioned final action.

Conclusion

Pursuant to Charter Chapter 36, the NYC Employees' Retirement System 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 NYC Employees' Retirement System'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.



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 NYC Employees' Retirement System's implementation of the prescribed corrective action(s).

(No Response Option) If the NYC Employees' Retirement System 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 NYC Employees' Retirement System 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,

A handwritten signature in blue ink, appearing to read "Ilacia Zuell". The signature is written over a horizontal line.

Ilacia Zuell, Manager, EEO Analysis and Audit Unit

Approved by,

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

Charise L. Terry
Executive Director

c: Jennifer Shaw, Esq., Executive Agency Counsel/ Director of Compliance
Sabrina Hayat, Principal EEO Professional, NYC Employees' Retirement System

Exhibit 2
EEPC Final Determination



Sasha Neha Ahuja
Chair

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

Charise L. Terry
Executive Director

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BY MAIL AND EMAIL

December 18, 2019

Melanie Whinnery
Executive Director
New York City Employees' Retirement System
335 Adams Street, Suite 2300
Brooklyn, New York 11201

Re: Resolution #2019AP/236-009-(2019)
New York City Employees' Retirement System
Evaluation of Sexual Harassment Prevention and Response Practices
Audit Period: January 1, 2017 to December 31, 2018
Determination: **FINAL**

Dear Executive Director Whinnery:

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: November 29, 2019
No Response Received.

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 New York City Employees' Retirement System's Sexual Harassment Prevention and Response Practices.

As the New York City Employees' Retirement System 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 New York City Employees' Retirement System 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: January 1, 2020 to June 30, 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 New York City Employees' Retirement System has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The New York City Employees' Retirement System will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The New York City Employees' Retirement System 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 New York City Employees' Retirement System's implementation of the final corrective action, if any, the EEPC requires that the New York City Employees' Retirement System 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 New York City Employees' Retirement System must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the New York City Employees' Retirement System 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 EEPD'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: Sabrina Hayat, Principal EEO Professional, Assistant General Counsel, NYCERS

Enclosed: TeamCentral Agency Manual



Agency: New York City Employees' Retirement System
Compliance Period: January 1, 2020 to June 30, 2020

FINAL DETERMINATION

A response indicating progress of New York City Employees' Retirement System'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:

Monitoring Required

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

Corrective Action #1:

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.

Agency Response:

No response received.

EEPC Response:

Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #2:

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

Agency Response:

No response received.

EEPC Response:

Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #3:

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.

² Excerpts are italicized.



Agency Response:
No response received.

EEPC Response:
Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #4:

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.

Agency Response:
No response received.

EEPC Response:
Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #5:

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.

Agency Response:
No response received.

EEPC Response:
Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #6:

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

Agency Response:
No response received.

EEPC Response:
Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #7:

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.

Agency Response:
No response received.



EEPC Response:

Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #8:

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.

Agency Response:

No response received.

EEPC Response:

Implementation of this corrective action will be monitored during the compliance-monitoring period.

Corrective Action #9:

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.

Agency Response:

No response received.

EEPC Response:

Implementation of this corrective action will be monitored during the compliance-monitoring period.

FINAL COMPLIANCE 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.