



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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December 15, 2011

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

Re: Resolution #11/27-042(BMCC) Audit Re: Preliminary Determination Letter Pursuant to Audit of Compliance by the Borough of Manhattan Community College with its Affirmative Action/Equal Employment Opportunity and Diversity Policy from July 1, 2007 to June 30, 2010

Dear President Perez:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines city agency as any "city, county, borough, or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..." The Borough of Manhattan Community College (BMCC) of the City University of New York (CUNY) is funded by the City of New York and is therefore considered a city agency pursuant to Chapter 36, section 831(a) of the New York City Charter.

This Commission is empowered by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment programs for minority group members, women and other protected classes. This audit measures the BMCC's compliance with its Affirmative Action/Equal Employment Opportunity and Diversity Policy, as well as Commission policies and EEO standards expressed in the Federal, State and

City Human Rights Laws. All recommendations for corrective actions are consistent with both the audit's findings and the parameters set forth in the BMCC's Affirmative Action/Equal Employment Opportunity and Diversity Policy (AA/EEO) and Discrimination Complaint Procedure.

The purpose of this audit is to evaluate the college's compliance with the standards cited above, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope and Methodology

Audit methodology included an analysis of the college's responses to an *EEPC Document and Information Request Form*. The EEPC sent interview questionnaires to the college's former and current Affirmative Action/Compliance and Diversity Officers (AA/CDO)/Trainer/ Section 504/ADA Coordinator, Deputy Director Human Resources, and Vice-President for Legal Affairs and Faculty and Staff Relations. The EEPC Senior Auditor also had a follow-up discussion of audit findings with the current AA/CDO.

In addition, the EEPC's Executive Director provided links to the *EEPC's Employee Survey* and *EEPC's Supervisor/Manager Survey* for the President's distribution to employees. The *Employee Survey* was distributed to 868 full-time employees, only 111 (13%) responded. Due to the low response the *Survey* was distributed again, only 119 (14%) responded. Since this response rate is below the minimum required by this Commission (20%), the Commission does not consider this a significant response rate. The *Employee Survey* findings will not be cited in this report. (Appendix 1) The *EEPC's Supervisor/Manager Survey* was distributed to 69 supervisors/managers; 26 (38%) responded. Survey findings are included in this report and are attached as appendix 5.

Description of the Agency

The Borough of Manhattan Community College is a comprehensive two-year community college of the City University of New York. BMCC shares CUNY's mission to preserve academic excellence and extend higher educational opportunity to a diversified urban population. The College offers diversified curricula in the liberal arts and career education and continuing education programs, many of which reflect emerging technologies. BMCC is also committed to providing collaborative programs and services responsive to the educational, cultural and recreational needs of the community. The chief academic and administrative officer of BMCC is the President, who has the general responsibility in accordance with the policies of the Board of Trustees of the City University of New York for development, implementation, administration, and quality of all programs at the College.

Personnel Activity during the Audit Period

During the period in review, the total number of employees increased from 832 to 981. The number of African-American employees increased from 268 to 300, Asian/Pacific Islander employees increased from 97 to 115, Caucasian employees increased from 308 to 363, Hispanic employees increased from 157 to 189, and Native-American employees increased from 2 to 14. Female employees increased from 419 to 511. (Appendices 2 and 3)

The colleges' applicants, hires, promotions, and terminations data are included in Appendix 4.

Discrimination Complaint Activity during the Audit Period

During the period in review, 42 internal discrimination complaints were filed: 23 were based on sexual harassment, 2 were based on disability, 2 were based on race, 2 were based on sexual orientation, 1 was based on ethnicity, 1 was based on age, 1 was based on national origin, 1 was based on citizenship, 7 were based on multiple categories, and 2 were miscellaneous. The AA/CDO completed and issued reports for 18 of these complaints which received 1 probable cause determination and 17 no probable cause determinations; one internal discrimination complaint was also filed with an external agency.

At the time of this audit, 4 internal discrimination complaints were pending. The college reported 2 external discrimination complaints. (Appendix 6)

Legal Issues

The college reported that there was one EEO judgment/settlement of \$205,000 during the audit period and the two years prior. The basis of the lawsuit was disability. There were no pending lawsuits at the end of the audit period.

PRELIMINARY DETERMINATION

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

AA/EEO Policy and Diversity Documents

The BMCC is in compliance with the following requirements:

1. The President issued a general *Statement of Affirmative Action and Equal Employment Opportunity*. It was distributed to all employees through campus mail and website. In addition, 77% of respondents to the *EEPC's Supervisor/Manager Survey* indicated they had received a copy of the college's *Statement of Affirmative Action and Equal Employment Opportunity* memorandum.
2. The college's AA/EEO and Diversity Policies (which includes the *Policies and Procedures on Non-Discrimination and Sexual Harassment*) were distributed through campus mail, website, and at new employee orientation. In addition, 89% of respondents to the *EEPC's Supervisor/Manager Survey* indicated they could be found in the AA/EEO and Diversity Office, 92% indicated they could be found in the HR/Personnel Office, and 69% indicated they could be found on the Intranet. The AA/EEO and Diversity Policies are updated yearly.

EEO Training Standards

The BMCC is in compliance with the following requirement:

The AA/CDO who was also the AA/EEO and Diversity Trainer provided AA/EEO and Diversity and sexual harassment prevention training to employees. The AA/CDO received prior AA/EEO and Diversity training and experience from another CUNY college, private practice and Cornell School of Industrial and Labor Relations. Subsequent to becoming AAO/CDO she attended EEO and Diversity sessions as part of annual conferences sponsored by Stetson University School of Law, University of Vermont, and CUNY. She also attended monthly AAO meetings at CUNY where relevant topics were discussed and training provided.

The college ensured that new employees were advised of the AA/EEO and Diversity Policies and the employees' rights and responsibilities under such policies, and the discrimination complaint procedure in the new-hire packet. In addition, 58% of respondents to the *Supervisor/Managers Survey* indicated they did receive sexual harassment prevention training during the past 3 years.

The BMCC is in partial compliance with the following requirement:

Although formal presentations of the AA/EEO and Diversity Policies were given at department meetings and at new faculty orientations, the college did not submit documentation. In addition, 54% of respondents to the *Supervisor/Managers Survey* indicated they did not receive AA/EEO and Diversity training during the past 3 years. Corrective action is required.

Recommendation: The College should develop an AA/EEO and Diversity training plan to ensure that all individuals who work within the campus, including managers and supervisors, are trained concerning AA/EEO and Diversity-related policies, rights, and responsibilities. (CUNY, *Policies and Procedures on Non-Discrimination and Sexual Harassment*, p. 7, Sect III.2 and EEPC/Sect. 831, City Charter)

Discrimination Complaint and Investigation Procedures

The BMCC is in compliance with the following requirements:

The college has established an internal complaint investigation procedure by which the Affirmative Action/Compliance and Diversity Officer investigates discrimination complaints.

EEO Internal Discrimination Complaint Files

The college submitted 10 internal files that it designated as "discrimination complaint files" for the EEPC's review. Six of the ten files were regarding student complaints, one was informally handled and three were employee complaints.

The following findings and recommendations are based on the three employee complaints.

The BMCC is not in compliance with the following requirements:

One of the three internal complaint files did not contain written notification informing the complainant and accused that an investigation had begun, which may include interviews with third parties, and that the President shall determine what action, if any, to take after the investigation is complete. Corrective action is required.

Recommendation: The complainant should be informed in writing that an investigation is being commenced, that interviews of the accused and possibly other people shall be conducted, and that the President shall determine what action, if any, to take after the investigation is complete. (CUNY, *Policies and Procedures on Non-Discrimination and Sexual Harassment*, Section III.7b2, July 2010)

Recommendation: The accused should be advised that a complaint of discrimination has been received, that an investigation has begun, which may include interviews with third parties, and that the President shall determine what action, if any, to take after the investigation is completed. The accused should be given a copy of the complaint and an opportunity to respond. (CUNY, *Policies and Procedures on Non-Discrimination and Sexual Harassment*, Section III.7b3, July 2010)

Selection and Recruitment System

The BMCC is in compliance with the following requirements:

1. When advertising, the college indicates it is an Equal Opportunity Employer. The last five internal job vacancy notices: HR Affirmative Action Officer; Assistant Professor/ESL Developmental Skills; Finance Procurement Director; Enrollment Bursar Specialist; and Campus Security Director included this indication.

The college submitted advertisements which were published in the *NYDailyNews.com*, *nytimes.com/Monster*, *Hispanic Outlook*, and *diverseeducation.com* during the audit period. All five advertisements: Campus Security Officer - Level 4; Human Resources/Affirmative Action Officer; and three bulk advertisements: Faculty Position – ESL/Developmental Skills, Stationary Engineer, Director of Student Counseling, Finance Procurement Director, Student Life Specialist – Civic Responsibility and Student Development, and Enrollment Bursar Specialist included the Equal Opportunity Employer tagline.

2. The college conducts annual evaluations for its managerial and non-managerial employees. Sixty-two percent of respondents to the *EEPC's Supervisor/Manager Survey* indicated they received annual performance evaluations.
3. The college assesses its methods of recruitment for discretionary positions to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. When underrepresentation was identified the hiring department was informed and new recruitment strategies were designed to enhance outreach.
4. The college assessed its selection criteria for discretionary positions to determine whether there is adverse impact upon any particular racial, ethnic, disability, or gender group. During the period in review, disparate impact studies were conducted on applicants/hires. The

college also ensured that employees involved in job interviewing received training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview. In addition, 96% of respondents to the *EEPC's Supervisor/Manager Survey* indicated they interviewed candidates for positions; 92% of these respondents also indicated they had received training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview.

EEO Professionals' Responsibilities/Reporting Arrangement

The BMCC is in compliance with the following requirements:

1. The college has appointed an AA/CDO to develop, implement, and monitor the College's affirmative action program. The AA/CDO is responsible for implementing the College's Affirmative Action and Equal Employment Opportunity policies and ensuring compliance with relevant city, state, and federal statutes, such as Title VII, Title IX, Section 504, and the Americans with Disabilities Act; serving as the Chair of the Sexual Harassment Panel, with responsibility for investigating complaints; developing and implementing EEO/AA training programs, monitoring EEO/AA policies, practices, and procedures; serving as the principal EEO/AA contact with compliance agencies and the university; and promoting diversity in all hiring and recruitment.

The college identified its AA/CDO in its annual notification of *Affirmative Action and Equal Employment Opportunity* memorandum. Employees were also notified via the college online directory and all publications that list college administrators. In addition, 100% of respondents to the *EEPC's Supervisor/Manager Survey* indicated they knew who the AA/CDO is.

2. During the audit period the college's organization chart established that the AA/CDO reported to the President. The AA/CDO met with the President daily or as needed to discuss AA/EEO issues.
3. There were at least one male and one female professional available and authorized to investigate discrimination complaints.

The BMCC is in partial compliance with the following requirement:

Although the AA/CDO met with the President daily or as needed to discuss AA/EEO issues, notes of those meetings were not kept. Corrective action is required.

Recommendation: Because the AA/CDO should report directly to the President (or to a direct report to the President), it is the Commission's position that appropriate documentation of meetings and other communications between the AA/CDO and the President regarding decisions that impact the administration of the college's EEO program be maintained. (Commission's Position and EEPC/Sect. 831, City Charter)

EEO and Reasonable Accommodation for Persons with Disabilities

The BMCC is in compliance with the following requirements:

1. The college has established and distributed a Reasonable Accommodation Procedure. The college's Reasonable Accommodation Procedure is posted on the CUNY website and Intranet.
2. The college appointed its AA/CDO as ADA/504 Coordinator who works with Human Resources and the Office of Student Disability Services to oversee the reasonable accommodation process and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities.
3. The college is committed to having alternative formats (such as large print, audio tape, and/or Braille) available upon request for use by persons with disabilities. The college reports that there were no requests for EEO Policies in alternative formats.

The BMCC is in partial compliance with the following requirement:

In response to this audit, the BMCC completed the EEPC's checklists for determining accessibility. The location (163 West 125th Street, NY, NY 10027 - 5th, 14th, 15th, & 16th Floors) was accessible to and usable by persons with disabilities (e.g. facilities contain street accessible entrances, ramp access, wheelchair accessible elevators, bell and Braille in elevators, wide restroom stalls, grab bars in restroom, and low sink or bathroom fixtures). However, the facilities at 70 Murray, 2nd, 10th, 11th, 12th, & 14th Floors, 25 Broadway, 8th Floor, and 199 Chambers Street, 1 to 7 Floors do not have low sink or bathroom fixtures. Corrective action is required.

Recommendation: Since it is the Commission's position that the college is responsible for ensuring compliance with all federal, state, and local laws, as well as City and college policies, pertaining to persons, (i.e., employees) with disabilities, the college should develop a plan to demonstrate accessibility compliance for the three facilities. This plan should identify barriers and detail the efforts the college has taken to remove barriers. This plan will be reviewed during the compliance period. (Commission's Position and EEPC/Sect. 831, City Charter, (ADAAG) and Local Law 58)

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The College should develop an AA/EEO and Diversity training plan to ensure that all individuals who work within the campus, including managers and supervisors, are trained concerning AA/EEO and Diversity-related policies, rights, and responsibilities. (CUNY, *Policies and Procedures on Non-Discrimination and Sexual Harassment*, p. 7, Sect III.2 and EEPC/Sect. 831, City Charter)
2. The complainant should be informed in writing that an investigation is being commenced, that interviews of the accused and possibly other people shall be conducted, and that the President shall determine what action, if any, to take after the investigation is complete. (CUNY,

Policies and Procedures on Non-Discrimination and Sexual Harassment, Section III.7b2, July 2010)

3. The accused should be advised that a complaint of discrimination has been received, that an investigation has begun, which may include interviews with third parties, and that the President shall determine what action, if any, to take after the investigation is completed. The accused should be given a copy of the complaint and an opportunity to respond. (CUNY, *Policies and Procedures on Non-Discrimination and Sexual Harassment*, Section III.7b3, July 2010)
4. Because the AA/CDO should report directly to the President (or to a direct report to the President), it is the Commission's position that appropriate documentation of meetings and other communications between the AA/CDO and the President regarding decisions that impact the administration of the college's EEO program be maintained. (Commission's Position and EEPC/Sect. 831, City Charter)
5. Since it is the Commission's position that the college is responsible for ensuring compliance with all federal, state, and local laws, as well as City and college policies, pertaining to persons, (i.e., employees) with disabilities, the college should develop a plan to demonstrate accessibility compliance for the three facilities. This plan should identify barriers and detail the efforts the college has taken to remove barriers. This plan will be reviewed during the compliance period. (Commission's Position and EEPC/Sect. 831, City Charter, (ADAAG) and Local Law 58)

In addition to the above recommendations, during the compliance process, the Commission requires that the college distribute a memorandum to all staff informing them of the changes that are being implemented in the college's Affirmative Action/Equal Employment Opportunity and Diversity Program pursuant to the audit. This memorandum should re-emphasize the college head's commitment to the college's EEO Program.

Conclusion

Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of the BMCC's compliance with its Affirmative Action/Equal Employment Opportunity and Diversity Policy, as well as Commission policies and EEO standards, we respectfully request your response to the aforementioned preliminary determinations.

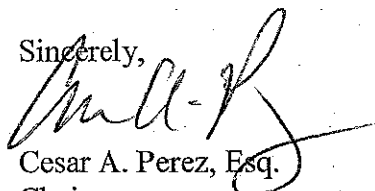
Your response should indicate what corrective actions your office will take to bring the college in compliance with the aforementioned policies and which recommendations it intends to follow. As your staff informed us during the exit meeting, you have already implemented some of our recommended corrective actions. Please specify these corrective actions in your response, and include any documentation as addenda to your formal response to the Preliminary Determination.

Pursuant to Section 832 of the New York City Charter, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six

months, this Commission may publish a report and recommend the appropriate corrective actions that you should implement in your college's EEO/Affirmative Action Plan.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cesar A. Perez', written over the typed name below.

Cesar A. Perez, Esq.
Chair

Appendix 1

1. City University of New York

| | Response Percent | Response Count |
|------------------------------------|------------------|----------------|
| College Name: <input type="text"/> | 100.0% | 130 |
| answered question | | 130 |
| skipped question | | 0 |

2. Equal Employment Opportunity (EEO) guarantees the right of all persons to be accorded full and equal consideration on the basis of merit, regardless of protected group status. Do you agree with this principle?

| | Response Percent | Response Count |
|------------------------------|------------------|----------------|
| Yes <input type="checkbox"/> | 93.8% | 122 |
| No <input type="checkbox"/> | 6.2% | 8 |
| answered question | | 130 |
| skipped question | | 0 |

3. Do you know who your college's Affirmative Action/Compliance and Diversity Officer (AA/CDO) is?

| | Response Percent | Response Count |
|------------------------------|------------------|----------------|
| Yes <input type="checkbox"/> | 49.2% | 64 |
| No <input type="checkbox"/> | 50.8% | 66 |
| answered question | | 130 |
| skipped question | | 0 |

AA/EEO & Diversity Program: Borough of Manhattan Community College Edit

Design Survey Collect Responses **Analyze Results**

- View Summary
- Browse Responses
- Filter Responses
- Crosstab Responses
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Response Summary

Total Started Survey: 130
Total Completed Survey: 119 (91.5%)

Select a page to view below or view all pages:

[«](#) #1. EMPLOYEE SURVEY [»](#)

PAGE: EMPLOYEE SURVEY

1. City University of New York

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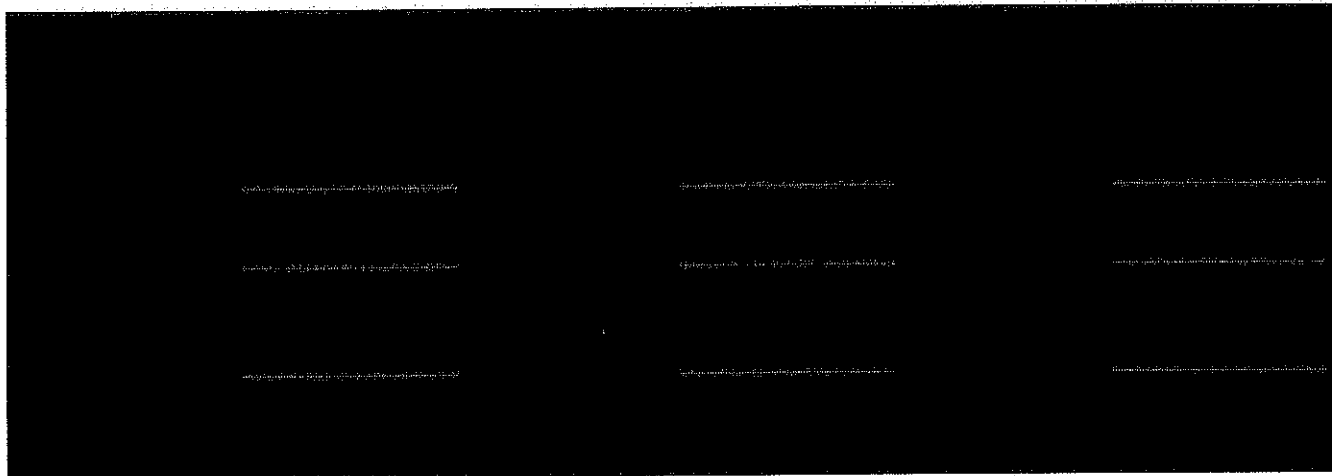
| | Response Percent | Response Count |
|---|------------------|----------------|
| College Name: Show Responses | 100.0% | 130 |

answered question 130



skipped question 0

Select a page to view below or view all pages:



[«](#) #1. EMPLOYEE SURVEY [»](#)






4. Are the AA/EEO and Diversity Policies posted on your college's bulletin boards or kept in an area otherwise accessible to employees?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 70.1% | 89 |
| No |  | 29.9% | 38 |
| answered question | | | 127 |
| skipped question | | | 3 |

5. Do you believe your college practices EEO (i.e. ensures fairness in all aspects of employment including hiring, selection, promotions, etc.)?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 68.3% | 86 |
| No |  | 31.7% | 40 |
| answered question | | | 126 |
| skipped question | | | 4 |

6. How often has your manager or supervisor reaffirmed the college's commitment to the principle of EEO during staff meetings within the past year?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Two or more times |  | 31.1% | 38 |
| One time |  | 17.2% | 21 |
| At no time |  | 51.6% | 63 |
| answered question | | | 122 |
| skipped question | | | 8 |

7. How often has your manager or supervisor discussed employees' right to file a discrimination complaint with the college's AA/CDO during staff meetings within the past year?

| | Response Percent | Response Count |
|--------------------------|------------------|----------------|
| Two or more times | 18.9% | 23 |
| One time | 14.8% | 18 |
| At no time | 66.4% | 81 |
| answered question | | 122 |
| skipped question | | 8 |




8. When hired, were you advised of the college's AA/EEO and Diversity Policies and of your rights and responsibilities under such policies?

| | Response Percent | Response Count |
|--------------------------|------------------|----------------|
| Yes | 35.2% | 43 |
| No | 17.2% | 21 |
| Do Not Remember | 47.5% | 58 |
| answered question | | 122 |
| skipped question | | 8 |




9. Do you know how to file an EEO complaint?

| | Response Percent | Response Count |
|--------------------------|------------------|----------------|
| Yes | 37.2% | 45 |
| No | 62.8% | 76 |
| answered question | | 121 |
| skipped question | | 9 |



10. If you had an EEO complaint, would you bring it to your college's AA/EEO and Diversity Office?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 57.5% | 69 |
| No |  | 11.7% | 14 |
| Undecided |  | 30.8% | 37 |
| answered question | | | 120 |
| skipped question | | | 10 |

11. Would you prefer to file an EEO complaint with an office outside your college?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 37.5% | 45 |
| No |  | 25.8% | 31 |
| Undecided |  | 36.7% | 44 |
| answered question | | | 120 |
| skipped question | | | 10 |

12. During the past 3 years, did you file a complaint with your college's AA/EEO and Diversity Office?

| | | Response Percent | Response Count |
|-------------------|--|------------------|----------------|
| Yes |  | 0.8% | 1 |
| No |  | 99.2% | 119 |
| answered question | | | 120 |
| skipped question | | | 10 |

13. Was your manager or supervisor supportive of your right to file a complaint?

| | Response Percent | Response Count |
|--------------------------|------------------|----------------|
| Yes | 0.0% | 0 |
| No | 100.0% | 1 |
| Not Applicable | 0.0% | 0 |
| answered question | | 1 |
| skipped question | | 129 |




14. During the past 3 years, did you receive AA/EEO and Diversity training?

| | Response Percent | Response Count |
|----------------------------------|------------------|----------------|
| Yes | 33.3% | 40 |
| No | 63.3% | 76 |
| Employed for less than 12 months | 3.3% | 4 |
| answered question | | 120 |
| skipped question | | 10 |




15. How informative was this training?

| | Response Percent | Response Count |
|--------------------------|------------------|----------------|
| Very informative | 45.0% | 18 |
| Somewhat informative | 45.0% | 18 |
| Not really informative | 7.5% | 3 |
| Not Applicable | 2.5% | 1 |
| answered question | | 40 |
| skipped question | | 90 |




16. Does your college use training and development programs in order to improve job performance and/or career opportunities?

| | | Response Percent | Response Count |
|-------------------|---|---------------------|-------------------|
| Yes |  | 59.2% | 71 |
| No |  | 18.3% | 22 |
| I do not know |  | 22.5% | 27 |
| answered question | | | 120 |
| skipped question | | | 10 |

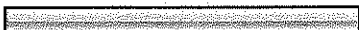

17. Are vacant positions advertised on bulletin boards or other areas accessible to employees in a timely manner?

| | | Response Percent | Response Count |
|-------------------|---|---------------------|-------------------|
| Yes |  | 50.0% | 60 |
| No |  | 30.8% | 37 |
| Do not remember |  | 19.2% | 23 |
| answered question | | | 120 |
| skipped question | | | 10 |



18. Have you received annual performance evaluations within the past 3 years?

| | Response Percent | Response Count |
|--|------------------|----------------|
| Yes  | 74.2% | 89 |
| No  | 23.3% | 28 |
| Employed for less than 12 months  | 2.5% | 3 |
| answered question | | 120 |
| skipped question | | 10 |




19. Did your evaluation contain recommendations for improving your job performance?

| | Response Percent | Response Count |
|--|------------------|----------------|
| Yes  | 55.1% | 49 |
| No  | 44.9% | 40 |
| answered question | | 89 |
| skipped question | | 41 |



20. Did your evaluation contain recommendations for career advancement within the college?

| | Response Percent | Response Count |
|---|------------------|----------------|
| Yes  | 28.1% | 25 |
| No  | 71.9% | 64 |
| answered question | | 89 |
| skipped question | | 41 |



21. The Career Counselor is a trained professional (often the Human Resources Director) familiar with civil service and provisional jobs who provides career counseling to employees who request such guidance. Do you know who your college's Career Counselor is?

| | | Response Percent | Response Count |
|-------------------|---|---------------------|-------------------|
| Yes |  | 20.8% | 25 |
| No |  | 60.0% | 72 |
| Not Applicable |  | 19.2% | 23 |
| answered question | | | 120 |
| skipped question | | | 10 |



22. The Disability Rights Coordinator is responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws pertaining to persons with disabilities. Do you know who your college's Disability Rights Coordinator is?

| | | Response Percent | Response Count |
|-------------------|---|---------------------|-------------------|
| Yes |  | 49.2% | 59 |
| No |  | 50.8% | 61 |
| answered question | | | 120 |
| skipped question | | | 10 |






23. Employers are required to take appropriate action to reasonably accommodate qualified employees and applicants with disabilities, and those who are victims of domestic violence, sex offenses, or stalking, to enable to them to perform their jobs or enjoy equal benefits and privileges of employment. Employers are also required to provide reasonable accommodations for the religious observances, beliefs and practices of an employee or applicant. During the past 3 years, did you ask for a reasonable accommodation due to any of the above?

| | Response Percent | Response Count |
|---|-------------------|----------------|
| Yes  | 10.8% | 13 |
| No  | 89.2% | 107 |
| | answered question | 120 |
| | skipped question | 10 |



24. Was your accommodation granted?

| | Response Percent | Response Count |
|--|-------------------|----------------|
| Yes  | 92.3% | 12 |
| No  | 7.7% | 1 |
| | answered question | 13 |
| | skipped question | 117 |

25. Race/Ethnicity

| | Response Percent | Response Count |
|--|-------------------|----------------|
| Asian or Pacific Islander  | 6.3% | 7 |
| American Indian or Alaska Native | 0.0% | 0 |
| Black (not of Hispanic origin)  | 17.1% | 19 |
| Hispanic  | 21.6% | 24 |
| White (not of Hispanic origin)  | 45.9% | 51 |
| Other  | 9.0% | 10 |
| | answered question | 111 |
| | skipped question | 19 |

26. Gender

| | Response Percent | Response Count |
|--|-------------------|----------------|
| Male  | 39.5% | 45 |
| Female  | 60.5% | 69 |
| | answered question | 114 |
| | skipped question | 16 |

Supervisor/Manager Survey: Borough of Manhattan Community College Edit

Design Survey Collect Responses **Analyze Results**

- View Summary
- Browse Responses
- Filter Responses
- Crosstab Responses
- Download Responses
- Share Responses

Default Report **+ Add Report**

Response Summary

Total Started Survey: 26
Total Completed Survey: 26 (100%)

Select a page to view below or view all pages:

< #1. >

PAGE: 1

1. City University of New York

Download

| | Response Percent | Response Count |
|----------------------------|------------------|----------------|
| College: Show Responses | 100.0% | 25 |

answered question 25

skipped question 1

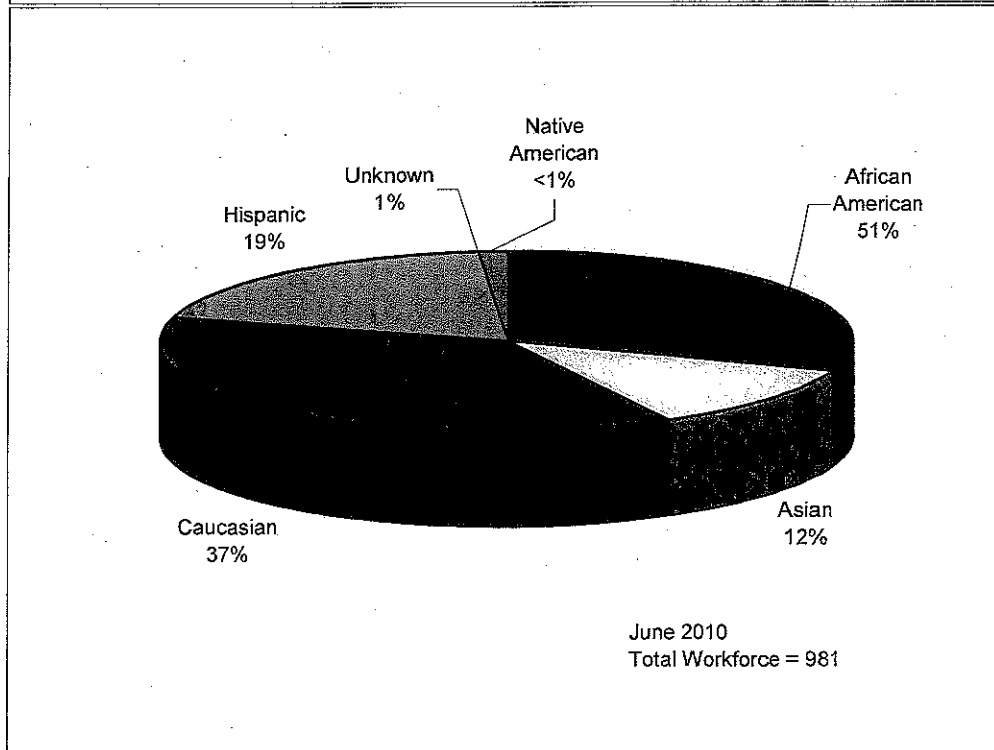
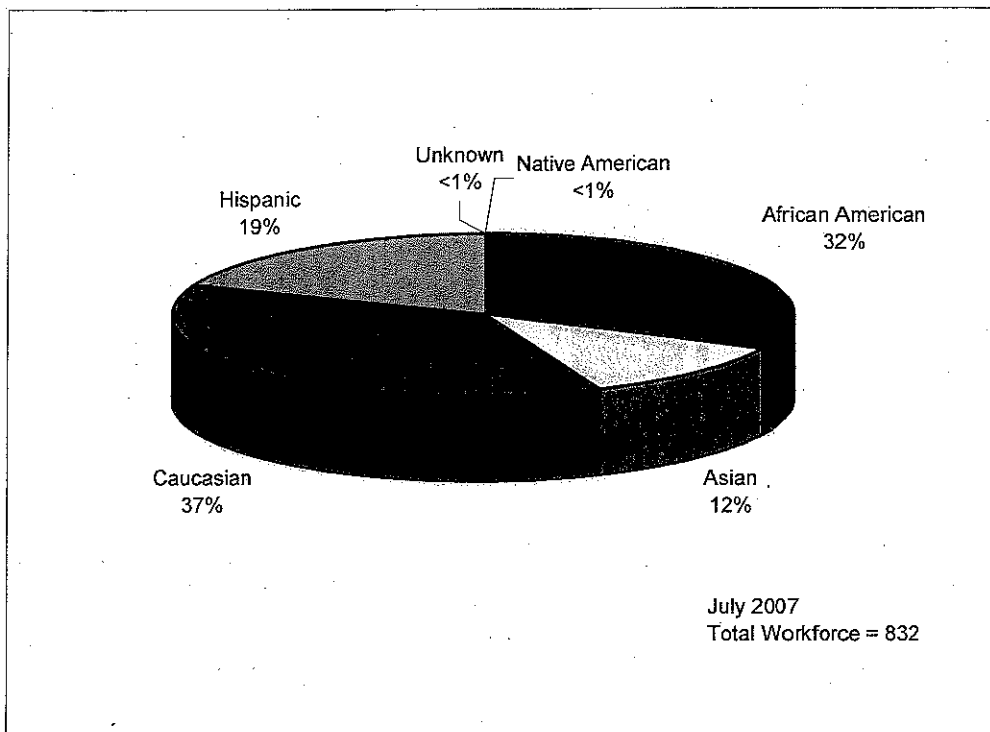
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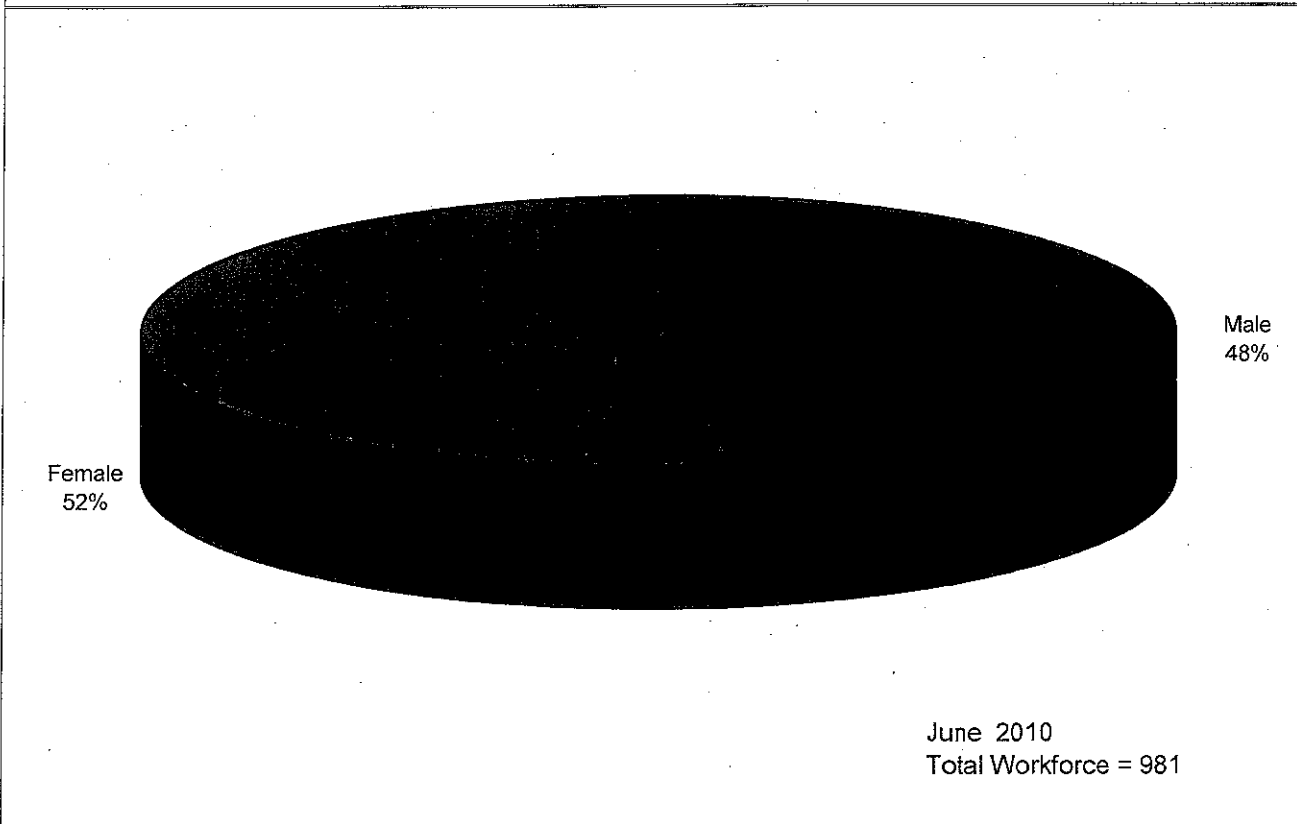
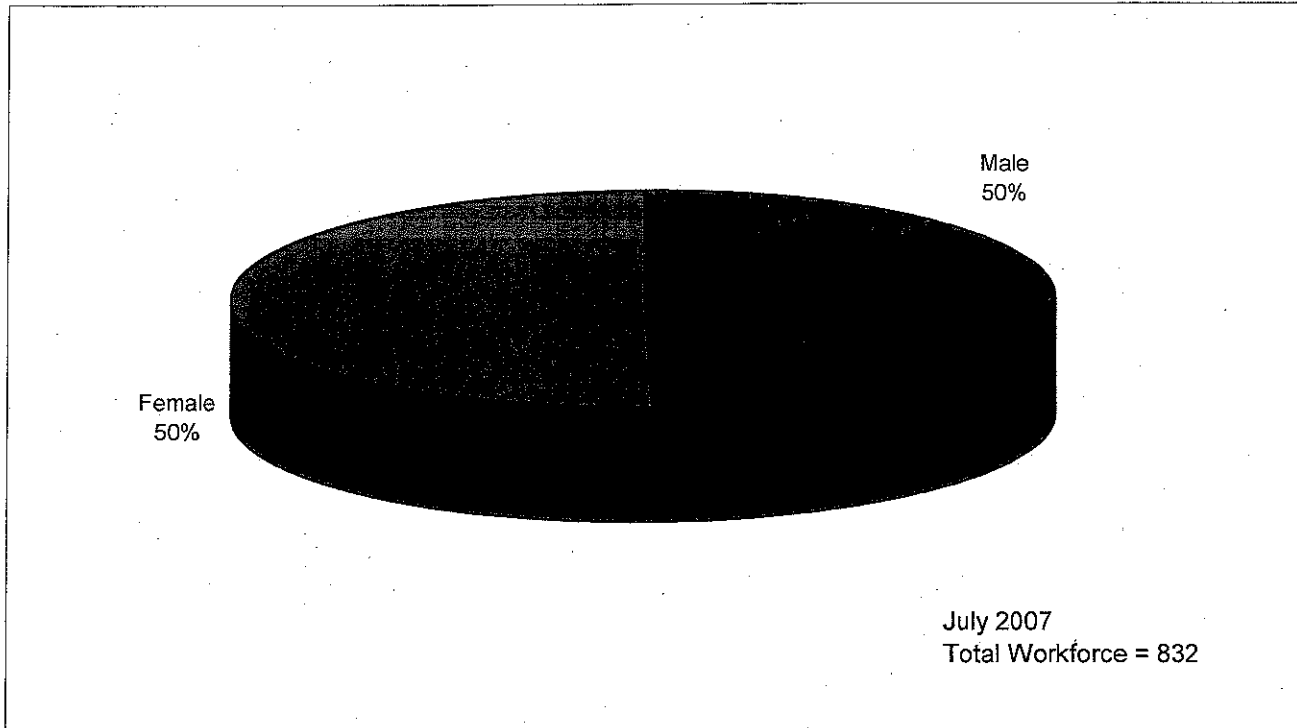
Appendix - 3

Borough of Manhattan Community College Workforce by Ethnicity



Appendix - 2

Borough of Manhattan Community College Workforce by Gender



APPENDIX – 4

The following table indicates personnel activity during the audit period, July 1, 2007 to June 30, 2010

Borough of Manhattan Community College

Hires by Sex and Ethnicity

Total Applicants: 11,046

| Male | Female | Total | Caucasian | African American | Hispanic | Asian | Native American | Unknown | Total |
|-------|--------|--------|-----------|------------------|----------|-------|-----------------|---------|--------|
| 5,082 | 5,964 | 11,046 | 3109 | 2167 | 893 | 774 | 29 | 4682 | 11,654 |

Hires by Sex and Ethnicity

Total Hires: 283

| Male | Female | Total | Caucasian | African American | Hispanic | Asian | Native American | Unknown | Total |
|------|--------|-------|-----------|------------------|----------|-------|-----------------|---------|-------|
| 116 | 167 | 283 | 114 | 82 | 52 | 34 | 1 | 0 | 283 |

Promotions by Sex and Ethnicity

Total Promotions: 107

| Male | Female | Total | Caucasian | African American | Hispanic | Asian | Native American | Unknown | Total |
|------|--------|-------|-----------|------------------|----------|-------|-----------------|---------|-------|
| 44 | 63 | 107 | 49 | 13 | 25 | 20 | 0 | 0 | 107 |

Separations by Sex and Ethnicity

Total Separations: 50

| Male | Female | Total | Caucasian | African American | Hispanic | Asian | Native American | Unknown | Total |
|------|--------|-------|-----------|------------------|----------|-------|-----------------|---------|-------|
| 11 | 14 | 25 | 7 | 11 | 5 | 2 | 0 | 0 | 25 |

Source: Audit data supplied by BMCC

Appendix 5

Supervisor/Manager Survey: Borough of Manhattan Community College Edit

Design Survey Collect Responses **Analyze Results**

- View Summary
- Browse Responses
- Filter Responses
- Crosstab Responses
- Download Responses
- Share Responses

Default Report  [+ Add Report](#)

Response Summary

Total Started Survey: 26
Total Completed Survey: 26 (100%)

Select a page to view below or view all pages:

#1.

PAGE: 1

1. City University of New York

[Download](#)

| | Response Percent | Response Count |
|--|------------------|----------------|
| College: Show Responses | 100.0% | 25 |

answered question 25

skipped question 1

Select a page to view below or view all pages:

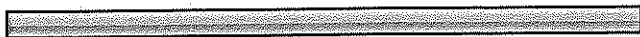
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Supervisor/Manager Survey: Borough of Manhattan Community College





1. City University of New York

| | Response Percent | Response Count |
|---|------------------|----------------|
| College:  | 100.0% | 25 |
| answered question | | 25 |
| skipped question | | 1 |

2. How many employees are under your supervision?

| | Response Percent | Response Count |
|--|------------------|----------------|
| 5 or less  | 11.5% | 3 |
| 6-10  | 19.2% | 5 |
| 11-20  | 23.1% | 6 |
| 21 or more  | 46.2% | 12 |
| answered question | | 26 |
| skipped question | | 0 |

3. How long have you worked for this college?

| | Response Percent | Response Count |
|---|------------------|----------------|
| Over 3 years  | 88.5% | 23 |
| 3 years or less  | 11.5% | 3 |
| answered question | | 26 |
| skipped question | | 0 |



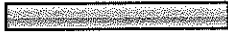

4. Each CUNY college president should issue annually a written statement that reaffirms support for AA/EEO and Diversity. Have you received a copy of the president's statement?

| | | Response Percent | Response Count |
|--------------------------|-------------------------------------|------------------|----------------|
| Yes | <input checked="" type="checkbox"/> | 76.9% | 20 |
| No | <input type="checkbox"/> | 3.8% | 1 |
| Do not remember | <input type="checkbox"/> | 19.2% | 5 |
| answered question | | | 26 |
| skipped question | | | 0 |

5. In your college, where can the policies and procedures on Affirmative Action, Disability Accommodations, and Non-Discrimination/Sexual Harrassment Prevention be found?
(Check all that apply.)

| | | Response Percent | Response Count |
|---------------------------------|-------------------------------------|------------------|----------------|
| The AA/EEO and Diversity Office | <input checked="" type="checkbox"/> | 88.5% | 23 |
| The HR/Personnel Office | <input checked="" type="checkbox"/> | 92.3% | 24 |
| The Intranet | <input checked="" type="checkbox"/> | 69.2% | 18 |
| Your Office | <input checked="" type="checkbox"/> | 34.6% | 9 |
| Do not know | <input type="checkbox"/> | 3.8% | 1 |
| answered question | | | 26 |
| skipped question | | | 0 |



6. Of the choices above, which is most easily accessible to you?

| | Response Percent | Response Count |
|---|-------------------|----------------|
| The AA/EEO and Diversity Office  | 15.4% | 4 |
| The HR/Personnel Office  | 34.6% | 9 |
| The Intranet  | 34.6% | 9 |
| Your Office  | 15.4% | 4 |
| | answered question | 26 |
| | skipped question | 0 |



7. Do you know the name of your college's Affirmative Action/Compliance and Diversity Officer (AA/CDO)?

| | Response Percent | Response Count |
|--|-------------------|----------------|
| Yes  | 100.0% | 26 |
| No | 0.0% | 0 |
| | answered question | 26 |
| | skipped question | 0 |



8. Have you been informed of your protections against illegal employment discrimination and sexual harassment in accordance with the college's AA/EEO and Diversity Policies by your college's AA/CDO?

| | Response Percent | Response Count |
|--|-------------------|----------------|
| Yes  | 92.3% | 24 |
| No  | 7.7% | 2 |
| | answered question | 26 |
| | skipped question | 0 |




9. Have you been informed of your responsibilities as a supervisor in accordance with your college's AA/EEO and Diversity Policies by your college's AA/CDO?

| | | Response Percent | Response Count |
|-------------------|--|---------------------|-------------------|
| Yes |  | 92.3% | 24 |
| No |  | 7.7% | 2 |
| answered question | | | 26 |
| skipped question | | | 0 |



10. CUNY's Policies and Procedures on Non-Discrimination and Sexual Harassment require persons with supervisory responsibility to take steps to create a workplace free of discrimination and harassment such as arranging for posting of the policies in their work areas. Have you done this?

| | | Response Percent | Response Count |
|-------------------|--|---------------------|-------------------|
| Yes |  | 80.8% | 21 |
| No |  | 19.2% | 5 |
| answered question | | | 26 |
| skipped question | | | 0 |



11. These policies also require supervisory personnel to encourage aggrieved persons to contact the AA/CDO. Have you done this?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 61.5% | 16 |
| No |  | 7.7% | 2 |
| Not Applicable |  | 30.8% | 8 |
| answered question | | | 26 |
| skipped question | | | 0 |

12. Did you receive sexual harassment prevention training from this college during the past 3 years ?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 57.7% | 15 |
| No |  | 42.3% | 11 |
| answered question | | | 26 |
| skipped question | | | 0 |

13. Did you receive training on AA/EEO and Diversity?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 46.2% | 12 |
| No |  | 53.8% | 14 |
| answered question | | | 26 |
| skipped question | | | 0 |

14. When you were hired, did you receive an orientation session that included a review of the college's AA/EEO and Diversity Policies?

| | Response Percent | Response Count |
|--|--------------------------|----------------|
| Yes <input type="checkbox"/> | 26.9% | 7 |
| No <input type="checkbox"/> | 26.9% | 7 |
| Do not remember <input type="checkbox"/> | 46.2% | 12 |
| | answered question | 26 |
| | skipped question | 0 |



15. Do you participate in orientation sessions for new employees?

| | Response Percent | Response Count |
|------------------------------|--------------------------|----------------|
| Yes <input type="checkbox"/> | 46.2% | 12 |
| No <input type="checkbox"/> | 53.8% | 14 |
| | answered question | 26 |
| | skipped question | 0 |





16. Do new employee orientation sessions include information on the AA/EEO and Diversity Policies?

| | Response Percent | Response Count |
|--------------------------------------|--------------------------|----------------|
| Yes <input type="checkbox"/> | 91.7% | 11 |
| No <input type="checkbox"/> | 0.0% | 0 |
| Do not know <input type="checkbox"/> | 8.3% | 1 |
| | answered question | 12 |
| | skipped question | 14 |

17. Do you interview candidates for positions in your agency?

| | | Response Percent | Response Count |
|-------------------|--|------------------|----------------|
| Yes |  | 96.2% | 25 |
| No |  | 3.8% | 1 |
| answered question | | | 26 |
| skipped question | | | 0 |

18. A structured interview is a method that standardizes the type and order of interview questions asked to ensure that a fair comparison can be made between interviewees. Did your college provide you with training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview?

| | | Response Percent | Response Count |
|-------------------------|---|------------------|----------------|
| Training |  | 20.0% | 5 |
| Guide |  | 20.0% | 5 |
| Both training and guide |  | 52.0% | 13 |
| Neither |  | 8.0% | 2 |
| answered question | | | 25 |
| skipped question | | | 1 |

19. When was your last performance evaluation?

| | Response Percent | Response Count |
|---|------------------|----------------|
| Within the past year <input checked="" type="checkbox"/> | 61.5% | 16 |
| Over a year ago <input checked="" type="checkbox"/> | 30.8% | 8 |
| I have not received a performance evaluation <input type="checkbox"/> | 7.7% | 2 |
| answered question | | 26 |
| skipped question | | 0 |



20. Does your performance evaluation include an EEO component? (A section that rates your ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner.)

| | Response Percent | Response Count |
|---|------------------|----------------|
| Yes <input checked="" type="checkbox"/> | 41.7% | 10 |
| No <input checked="" type="checkbox"/> | 58.3% | 14 |
| answered question | | 24 |
| skipped question | | 2 |






21. Do you conduct formal performance evaluations of the employees under your supervision annually?

| | Response Percent | Response Count |
|---|------------------|----------------|
| Yes <input checked="" type="checkbox"/> | 96.2% | 25 |
| No <input type="checkbox"/> | 3.8% | 1 |
| answered question | | 26 |
| skipped question | | 0 |

22. Do you believe the college has provided sufficient training to supervisors/managers on their responsibilities in assisting employees who may complain about discrimination or harassment?

| | | Response Percent | Response Count |
|-------------------|---|------------------|----------------|
| Yes |  | 73.1% | 19 |
| No |  | 26.9% | 7 |
| answered question | | | 26 |
| skipped question | | | 0 |

23. Race/Ethnicity

| | | Response Percent | Response Count |
|----------------------------------|---|------------------|----------------|
| Asian or Pacific Islander |  | 18.2% | 4 |
| American Indian or Alaska Native | | 0.0% | 0 |
| Black (not of Hispanic origin) |  | 18.2% | 4 |
| Hispanic |  | 18.2% | 4 |
| White (not of Hispanic origin) |  | 40.9% | 9 |
| Other |  | 4.5% | 1 |
| answered question | | | 22 |
| skipped question | | | 4 |

24. Gender

| | | Response Percent | Response Count |
|-------------------|--------------------------|---------------------|-------------------|
| Male | <input type="checkbox"/> | 52.2% | 12 |
| Female | <input type="checkbox"/> | 47.8% | 11 |
| answered question | | | 23 |
| skipped question | | | 3 |

Appendix - 6

Borough of Manhattan Community College

External Complaints*

Total number of external complaints filed: 8

| Name of Outside Agency | Year | Nature of complaint | Status of complaint (incl. finding by outside agency) |
|--------------------------------|------|----------------------------|---|
| Office of Civil Rights | 2007 | Disability, Sex, Age, Race | Dismissed |
| State Division of Human Rights | 2009 | Race, Sex, Age | No probable cause determination rendered |
| | | | |
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*Filed During the Audit Period



Office of the President

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

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

January 23, 2012

Mr. Cesar A. Perez
Equal Employment Practices Commission
40 Rector Street, 14th Floor
New York, New York 10006

Re: Resolution #11/27-042 (BMCC) Audit Re: Preliminary Determination Letter Pursuant to the Audit of Compliance by Borough of Manhattan Community College with its Affirmative Action/Equal Employment Opportunity and Diversity Policy from July 1, 2007 to June 30, 2010.

Dear Mr. Cesar A. Perez:

I am in receipt of your preliminary determination dated December 15, 2011. Below is the Borough of Manhattan Community College's (hereinafter referred to as "BMCC") response to your preliminary determination letter.

1. EEPC Recommendation

The College should develop an AA/EEO and Diversity training plan to ensure that all individuals who work within the campus, including managers and supervisors, are trained concerning AA/EEO and Diversity-related policies, rights and responsibilities (CUNY, Policies and Procedures on Non-Discrimination and Sexual Harassment, p. 7, Sect III.2 and EEOC/ Sect. 831, City Charter).

BMCC's Response

BMCC values training its employees and supervisors on matters concerning EEO and diversity. Although the majority of the campus' training has dealt with sexual harassment, the college has begun expanding its training program to include other EEO/ diversity related topics. Since the audit period, BMCC has conducted the following trainings; Affirmative Action/ Basic EEO: Professional Development Workshop (employees)-December 3, 2010, Basic EEO training (employees)- March 10, 2011, Harassment-EEO Training (supervisors)-June 15, 2011 and Respectful Workplace: Preventing Harassment (Department Chairs)- October 25, 2011. See Attachment A.

BMCC will continue to conduct EEO and diversity training. Training sessions will be scheduled for the upcoming semester. In addition, the college is also exploring online training options to address the challenges of training a large workforce with varied schedules.

2. EEPC Recommendation

The complainant should be informed in writing that an investigation is being commenced, that interviews of the accused and possibly other people shall be conducted, and that the President shall determine what action, if any, to take after the investigation is complete. (CUNY, Policies and Procedures on Non-Discrimination and Sexual Harassment, Section III. 7b2, July 2010)

BMCC's Response

BMCC is in agreement with this recommendation and pursuant to CUNY's Procedures on Non-Discrimination and Sexual Harassment policy dated July 2010, will inform the complainant that an investigation has begun, interviews will be conducted and that the President will determine what action (if any) will be taken.

3. EEPC Recommendation

The accused should be advised that a complaint of discrimination has been received, that an investigation has begun, which may include interviews with third parties, and that the President shall determine what action, if any, to take after the investigation is complete. (CUNY, Policies and Procedures on Non-Discrimination and Sexual Harassment, Section III. 7b3, July 2010)

BMCC's Response

BMCC is in agreement with this recommendation and pursuant to CUNY's Procedures on Non-Discrimination and Sexual Harassment policy dated July 2010, will inform the accused that an investigation has begun, interviews will be conducted and that the President will determine what action (if any) will be taken.

4. EEPC Recommendation

Because the AA/CDO should report directly to the President (or to a direct report to the President), it is the Commissioner's position that appropriate documentation of meetings and other communications between the AA/CDO and the President regarding decisions that impact the administration of the college's EEO program be maintained. (Commission's Position and EEPC/Sect. 831, City Charter).

BMCC's Response

The college has agreed to implement this recommendation and going forward will maintain appropriate documentation of meetings and other communications between the Affirmation Action Officer and the President. BMCC reserves the right to determine what constitutes "appropriate documentation."

During our meeting with your agency's representatives on December 2, 2011, the scope of the required documentation was clarified. Documentation that is the focus of this recommendation is related to discussions on the impact or alterations of the administration of the college's EEO program, as opposed to discussions on individual cases under review.

5. EEPC Recommendation

Since it is the Commission's position that the college is responsible for ensuring compliance with all federal, state and local laws, as well as City and college policies, pertaining to persons, (i.e., employees) with disabilities, the college should develop a plan to demonstrate accessibility compliance for the three facilities. This plan should identify barriers and detail the efforts the college has taken to remove barriers. This plan will be reviewed during the compliance period. (Commission's Position and EEPC/ Sect. 831, City Charter, (ADAAG and Local Law 58).

BMCC's Response

In your agency's preliminary determination, it is noted that the facilities located at 70 Murray Street, 25 Broadway and 199 Chambers Street do not have low sinks or bathroom fixtures. Specific floors of these three facilities are then identified which your agency believes warrants corrective action.

It is BMCC's contention that developing a plan to demonstrate accessibility compliance, identifying barriers and then removing said barriers for its facilities is problematic for the college and therefore respectfully asks the EEPC to reconsider this recommendation.

First, the facilities located at 70 Murray Street and 25 Broadway are not owned by the University but are leased facilities. The college therefore has no authority to make alterations or renovations to these structures.

Second, with respect to 199 Chambers Street, this facility was built by the Dormitory Authority State of the New York (DASNY). Construction began in the 1970's, was interrupted and later completed in or about 1983. It is thus covered by New York Education Article 125-B § 6281 Municipal Regulation, which provides in part:

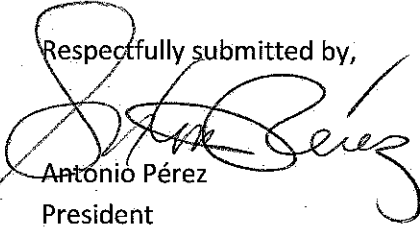
"No county, town or village including but not limited to the city of New York shall have the power to modify or change the plans and specifications for facilities to be provided pursuant to agreement between the dormitory authority and the city university construction fund..."

As you know, under the American with Disabilities Act, existing facilities that are grandfathered in must be made compliant only as the facility is renovated or altered. The college is in the process of making renovations to the bathrooms at 199 Chambers Street and has started the process of selecting an architect to do the design work.

The BMCC bathroom renovation project is a long term facilities renovation project, which will span multiple budget years. It is BMCC's plan, subject to financial ability to pay, to renovate the bathrooms at 199 Chambers Street. These renovations will be building wide compliant (meeting the American National Standards Institute's (ANSI) standards) at the time of their completion.

Overall, the college is committed to an EEO program that is in compliance with your agency's audit and I look forward to receiving your agency's response.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read 'Antonio Pérez', is written over the typed name. The signature is fluid and cursive, with a large initial 'A' and 'P'.

Antonio Pérez
President