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BY MAIL AND EMAIL

August 30, 2018

Susan Panepento
Director
Office of Collective Bargaining
100 Gold Street, Suite 4800
New York, NY 10038

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Office of Collective Bargaining's Sexual Harassment Prevention and Response Practices January 1, 2016 to December 31, 2017.

Dear Director Panepento:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's sexual harassment prevention and response practices for the period covering January 1, 2016 to December 31, 2017.

Chapter 36, Section 831(d)(5) of the New York City Charter empowers this Commission to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for women and minority employees and applicants seeking employment. Sections 831(d)(2) and 832(c) authorize this Commission to make a determination that any agency's 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 it prescribes.

The Office of Collective Bargaining, which may herein be referred to as "the agency," falls within the Commission's purview under Chapter 36, Section 831(a) of the New York City Charter, which delineates city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."



The purpose of this audit and analysis is to evaluate the agency's sexual harassment prevention and response practices, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*¹ and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures that are designed to increase equality of opportunity for municipal government employees and job applicants. These standards are founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters.

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

Scope and Methodology

This Commission's audit methodology includes the collection and analysis of the documents, records and data the agency provides in response to the document and information request; responses to the *EEPC Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans*, *Quarterly EEO Reports* and analysis of *Citywide Equal Employment Database System* (CEEDS) reports.

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

Description of the Agency

The New York City Office of Collective Bargaining is an independent, neutral agency authorized, through the Board of Collective Bargaining and the Board of Certifications, to rectify labor relations disputes and controversies between the City and its employee organizations and employees. The Office of Collective Bargaining achieves this by resolving questions concerning union representation, issues concerning the collective bargaining process (including contract mediations and impasses), claims of improper labor practices (including discrimination based on union

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

activity, refusal to bargain, and breach of the duty of fair representation), and the administration of the parties' contractual arbitration process.² The Office of Collective Bargaining's total workforce at the end of the audit period in review was 17 employees.³

PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

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

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- ✓ The agency's policy statement entitled, *OCB Diversity, Inclusion & Sexual Harassment Statement*, reiterated commitment to the prevention of sexual harassment and was posted to a bulletin board for the duration of the period in review. The policy statement included the following, "[t]he Office of Collective Bargaining is also committed in ensuring that sexual harassment based on any protected characteristic will not be tolerated. That any information gathered as part of the investigation will be kept confidential to the extend possibly [sic] consistent with a thorough and impartial investigation. And, that we will take immediate and proportionate corrective action if we determined [sic] that harassment has occurred."
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.
- ✓ The agency provided pictures demonstrating that the agency's EEO policy entitled, *OCB Diversity and Equal Employment Opportunity Policy*⁴ (OCB EEO Policy), was posted to a bulletin board in the main office suite (next to one of two entrances/exits to the office). The *OCB EEO Policy* included a definition and description of sexual harassment, contained procedures for investigating discrimination complaints, current contact information for the agency's EEO Officer and EEO Investigator, and current contact information for federal, state and local agencies that enforce laws against discrimination. The *OCB EEO Policy* contained electronic

² "Collective Bargaining, Office of (OCB)." *Green Book Online*. City of New York, 2015. Web. 2018. <<http://a856-gbol.nyc.gov/GBOLWebsite/GreenBook/Details?orgId=2889>>.

³ Based on the CEEDS: *Workforce Composition Summary Report* attached as Appendix 1.

⁴ The *OCB Diversity and Equal Employment Opportunity Policy* is attached as Appendix 2.

links to the following documents: *EEO Complaint Procedural Guidelines, City of New York*⁵ (EEO Complaint Procedural Guidelines), *Reasonable Accommodation Procedural Guidelines, City of New York* and the New York City EEO Policy Handbook, *About EEO: What You May Not Know*. Additionally, the agency reported that the aforementioned policies and complaint procedures were discussed with, and provided to, new employees during orientation.

II. EEO TRAINING FOR 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.
- ✓ The agency provided a Department of Citywide Administrative Services (DCAS) issued training log which indicated that between January 12 and 22, 2016, all 17 employees completed the DCAS *Equal Employment Opportunity* computer-based training, which included modules titled *Sexual Harassment* and *How to File an EEO Complaint*. The *Sexual Harassment* module defined sexual harassment, provided examples of behavior that constitutes sexual harassment and stated who is eligible to file a sexual harassment complaint. The *How to File an EEO Complaint* module explained the discrimination complaint and investigation process.

NOTE: Subsequent to the period in review, in July 2018, the agency established a plan for all employees to complete DCAS' *Sexual Harassment Prevention* computer-based training. In August 2018, the agency provided a training log demonstrating that approximately 80% of employees have already completed the *Sexual Harassment Prevention* computer-based training. The remaining employees are scheduled to complete the training before September 2018. The 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 employees can do to prevent sexual harassment.

III. COMPLAINT & INVESTIGATION PROCEDURES

Summary of Complaint Activity: The Office of Collective Bargaining reported no employment discrimination complaints were filed during the period in review. As a result, this Commission conducted its analysis of the agency's complaint and investigation procedures based on the policies, procedures and other information provided.

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

⁵ The *EEO Complaint Procedural Guidelines, City of New York* is attached as Appendix 3.

4. Include in the complaint file a completed *Complaint Intake Form*, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
 - ✓ The agency's *Complaint Intake Form* included areas to capture facts (including pertinent dates, the name(s) and title(s) of the respondent(s), the location of the incident, witnesses present, etc.) and a description of the circumstances which may gave rise to the complaint.
5. Provide the option to file a complaint anonymously.
 - ✓ The agency's EEO Complaint Procedural Guidelines stated, "*[t]he person making the complaint may do so anonymously, if he or she chooses.*" Additionally, the OCB EEO Policy stated, "*[p]ersons who wish to discuss a possible violation of this Policy without revealing their identity may do so by telephoning or writing the EEO office.*"
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 agency's EEO Complaint Procedural Guidelines stated, "*[t]he EEO Office must serve Respondent with a notice of complaint along with a redacted copy of the complaint or a summary of the complaint and allegations... [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.*" Additionally, the OCB EEO Policy set forth the following requirement, "*[a]ny person who is interviewed during the course of an EEO investigation has a right to be accompanied by a representative of his or her choice. This includes individuals who make complaints, persons against whom complaints were made, or witnesses.*"
7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
 - ✓ The agency's EEO Complaint Procedural Guidelines stated, "*[a] party may withdraw from mediation at any time... [i]f the parties agree to a resolution during mediation, a resolution agreement will be drafted and provided to the parties and the referring EEO Officer... [t]he EEO Office must inform all parties to the complaint, in writing, of the termination of mediation.*" Additionally, the OCB EEO Policy stated, "*[w]ithdrawal of a complaint must be made or confirmed in writing*" and "*[m]ediation may be terminated by any party to the mediation. If this occurs, the EEO Officer will inform the other party or parties in writing that the mediation has been terminated.*"
8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

- ✓ The agency's EEO Complaint Procedural Guidelines required, "[d]uring each interview, take thorough notes, as close to verbatim as possible. Notes should reflect the content of the interview, both the questions and answers, as completely as possible... [a]ll complaints and related documents, including any investigative notes, records, or copies... must be maintained by the EEO Office... [a]fter all the relevant facts have been gathered, the EEO Officer must prepare a confidential written report on the complaint investigation... [t]he written report should include a statement of the relevant facts gathered during the investigation."
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 agency's EEO Complaint Procedural Guidelines set forth the following requirements, "[t]he complaint investigation should begin immediately after a determination that the allegations raised, if true, are sufficient to establish discrimination... [t]he complaint investigation should be completed... within 90 calendar days of the filing of a complaint... [t]he final investigative report must be completed and the parties notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office."
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.
- ✓ The agency's EEO Complaint Procedural Guidelines stated, "[t]he final investigative report must be completed and the parties notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report."
11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.
- ✓ The agency's EEO Complaint Procedural Guidelines 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... [t]he 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... [t]he Agency Head must sign each written report and indicate that it has been reviewed." Additionally, the OCB 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. If the EEO Officer concludes that a violation of this Policy has occurred, the EEO Officer will recommend appropriate corrective

action. The agency head will review the EEO Officer's report and promptly issue a determination adopting, rejecting or modifying the recommended action. Such determination shall be in writing and may be issued electronically."

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.

NOTE: The agency reported no employment discrimination complaints were filed during the audit period. As compliance with the standard could not be meaningfully measured for the period in review, further evaluation of this area was impractical.

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 agency's EEO Complaint Procedural Guidelines 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... The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified."* Additionally, the OCB 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."*

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 agency's EEO Complaint Procedural Guidelines stated, *"[a]fter review of the report by the Agency Head, the EEO Office should inform all parties in writing of the outcome of the investigation... [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 OCB EEO Policy stated, *"[t]he EEO Officer will advise all parties in writing of the outcome of a complaint."*

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

- ✓ The agency's EEO Complaint Procedural Guidelines stated, *"if, based on facts, the EEO Officer determines that ... the Respondent engaged in unlawful discriminatory conduct in violation of*

the City's EEO Policy, the EEO Officer must determine the most appropriate action ... and make a written recommendation to the Agency Head... "[t]he written report should include ... a conclusion/determination and recommendation." Additionally, the OCB EEO Policy stated, "[t]he EEO Officer will submit a confidential report of the complaint investigation to the agency head... 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."

16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.
- ✓ The agency's EEO Complaint Procedural Guidelines 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 OCB EEO Policy stated, *"[w]hen a person exercises his or her right to file a complaint with a federal, state, or local administrative agency (known as an "external complaint") based on or related to the same facts and circumstances of an internal complaint, the agency EEO Officer will transfer the matter to the agency General Counsel, who will be responsible for any further handling of the matter. The EEO Officer will notify the complainant and the parties who are the subject of the complaint, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint. The agency General Counsel will be responsible for handling external complaints regardless of the timing of such complaints (whether filed before the internal complaint is filed, at the same time that the internal claim was filed, or after the internal complaint was filed)."*
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.

NOTE: The agency reported no employment discrimination complaints were filed during the audit period. As compliance with the standard could not be meaningfully measured for the period in review, further evaluation of this area was impractical.

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

- ✓ The General Counsel reviewed the revisions made by the principal EEO Professional to update the *OCB Diversity, Inclusion & Sexual Harassment Statement* and coordinated with the principal EEO Professional to ensure all employees completed EEO training (see § II.3). The General Counsel, who also served as the EEO Investigator/Counselor, was available to consult on internal sexual harassment complaint investigations, as noted in the *OCB EEO Policy* which stated, “an EEO investigation may be conducted in conjunction with or by an agency’s General Counsel’s office...” The *OCB EEO Policy* also stated, “[w]hen a person exercises his or her right to file a complaint with a federal, state, or local administrative agency (known as an “external complaint”) based on or related to the same facts and circumstances of an internal complaint, the agency EEO Officer will transfer the matter to the agency General Counsel, who will be responsible for any further handling of the matter... After transfer of the complaint to the agency General Counsel, the EEO Officer will cooperate with the General Counsel with respect to the ultimate resolution of the complaint.”

NOTE: The agency reported no external employment discrimination complaints were filed during the audit period. Therefore, the responsibility of informing the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency could not be measured for the period in review.

IV. ANNUAL REVIEW OF PRACTICES, POLICIES AND PROGRAMS

Determination: The agency is in non-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.
 - The agency reported no complaints were filed during the audit period, which made a review of the number of sexual harassment complaints impractical. However, the agency did not conduct an annual review of its employment practices, policies and programs to identify whether there are barriers to employment opportunities that may be related to sexual harassment and to determine what, if any actions are required to correct deficiencies.
Corrective Action Required.

Corrective Action #1: 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.

V. RESPONSIBILITY FOR IMPLEMENTATION - EEO PROFESSIONALS

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

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state and 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.
- ✓ The principal EEO Professional was appointed in 2001. Training completion certificates demonstrate that the principal EEO Professional completed the following EEO related trainings: *Basic Training for EEO Professionals (2003)*, *(computer-based) EEO Training for Managers and Supervisors (2009)*, *Influence Skills for EEO Officers (2010)*, *Everybody Matters: Train-the-Facilitator Program (2013)*, *LGBT: Are You Ready for the "T" (2016)*, and *Diversity and Equal Employment Basic Training (2017)*, all provided by DCAS. *Basic Training for EEO Professionals* and *Diversity and Equal Employment Basic Training* covered the investigation and resolution of discrimination and sexual harassment complaints. *EEO Training for Managers and Supervisors*, *Influence Skills for EEO Officers*, *Everybody Matters: Train-the-Facilitator Program* and *LGBT: Are You Ready for the "T"* covered policies and procedures to assist in the prevention 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.
- ✓ During the period in review, support for the principal EEO Professional was provided by the Deputy Chair/General Counsel who also served as EEO Investigator/EEO Counselor. The principal EEO Professional served as the agency's training liaison and worked with DCAS to stay abreast of EEO matters through training opportunities (see § V.20); receipt of DCAS policy updates; attending best practice meetings; and resources such as policies, executive orders, guides, and other EEO-related materials provided by DCAS. DCAS' *Best Practice* meetings provided guidance on the optimal ways in which city agencies can fulfill their requirements under city, state and federal EEO laws, policies and procedures.
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, the agency had 17 employees and 2 EEO professionals at one office location. The agency's Deputy Chair/General Counsel served as EEO Investigator/Counselor and provided support to the principal EEO Professional with respect to carrying out the EEO responsibilities, including the investigation and resolution of discrimination and sexual harassment complaints. The Deputy Chair/General Counsel's resume included the following credentials: over 19 years as a labor and employment lawyer

with experience advising and representing unions and employees in arbitrations, hearings and on improper and unfair labor practices at the city, state and federal levels. Additionally, the Deputy Chair/General Counsel completed DCAS' *Equal Employment Opportunity* computer-based training (see § II.3).

NOTE: A certificate of completion demonstrated that subsequent to the period in review, in August 2018, the Deputy Chair/General Counsel completed DCAS' *Sexual Harassment Prevention* computer-based training (see § II.3).

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 Deputy Chair/General Counsel and the principal EEO Professional collaborated to update the agency's *OCB Diversity, Inclusion & Sexual Harassment Statement* and to ensure that all employees completed the *Equal Employment Opportunity* computer-based training (see § II.3). The Deputy Chair/General Counsel and the principal EEO Professional coordinated on training and policy issues on an as needed basis, approximately 3-4 times per year.

NOTE: The agency provided email documentation that, subsequent to the period in review, the Deputy Chair/General Counsel and the principal EEO Professional met to discuss the logistics of the agency's sexual harassment training program.

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to distribute/post policies against sexual harassment and complaint procedures at all agency locations; ensure that employees receive sexual harassment prevention training; provide EEO policies and procedures in alternative formats (i.e., large print, audio recording and/or Braille) upon request; provide guidance and assistance to agency managers, supervisors and human resource professionals in addressing issues relating to sexual harassment; investigate allegations of sexual harassment; and supervise the EEO-related activities of other EEO professionals.
- ✓ The agency's principal EEO Professional ensured that the *OCB Diversity, Inclusion & Sexual Harassment Statement* and the *OCB EEO Policy* were posted on the bulletin board as well as distributed to employees (see § I.2); ensured that agency employees received sexual harassment prevention training via the *Equal Employment Opportunity* computer-based training (see § II.3); and was responsible for providing EEO policies in alternative formats upon request (a notice of availability was posted on the bulletin board). In addition, the principal EEO Professional and the EEO Investigator were responsible for investigating allegations of sexual harassment. Furthermore, the *OCB EEO Policy* required, "[s]upervisors, managers, or human resources personnel who receive EEO complaints, or otherwise become aware of any improper discrimination, must notify the agency EEO Officer. Supervisors and managers should also encourage individuals who believe that the Policy has been violated to consult with the EEO office." The principal EEO Professional did not supervise the EEO-related

activities of the EEO Investigator/Counselor, who was the agency's Deputy Chair/General Counsel. The agency's organizational chart illustrated that the principal EEO Professional and the Deputy Chair/General Counsel/EEO Investigator/Counselor both reported directly to the agency head for their EEO related responsibilities.

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 agency's organizational chart illustrated a direct reporting relationship between the principal EEO Professional and the 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.

NOTE: The agency reported that during the period in review there were no directives or decisions between the agency head and the principal EEO Professional that impacted the administration and operation of programs, policies or procedures concerning sexual harassment. As compliance with the standard could not be meaningfully measured for the period in review, further evaluation of this area was impractical. When future directives or decisions between the agency head and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment occur, the agency should maintain documentation of those directives and/or decisions.

VI. RESPONSIBILITY FOR IMPLEMENTATION – 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.

The expectation that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures is documented in the *OCB EEO Policy*, which stated, “[o]ur agency head...is committed to ensure that fair employment practices, are promoted in our workplace; a workplace that values our employees and supports the City's diversity and inclusion strategy. This commitment holds the EEO Officer, managers and supervisors accountable for ensuring that we do not discriminate against employees or applicants for employment and support the diversity and inclusion initiatives of our agency[;]” and “[m]anagers and supervisors shall allow employees to meet with EEO representatives at the earliest practicable time consistent with the operational

needs of their units.” As noted in the agency’s training tracking log, managers and supervisors completed the *Equal Employment Opportunity* computer-based training, which included a module on complaint procedures and information on managers/supervisors’ role in preventing and reporting sexual harassment.

The agency also responded in the affirmative to the EEPC’s *Preliminary Interview Questionnaire*, which inquired about whether the agency held managers and supervisors accountable for the following: cooperating with an EEO professional in the implementation of EEO and sexual harassment prevention policies and procedures (including training, complaint resolutions, and accommodations); consulting with an EEO professional if sexual harassment is observed, communicated or suspected; encouraging subordinates to consult with an EEO professional if sexual harassment is observed, communicated or suspected; allowing employees to meet with an EEO professional at the earliest mutually convenient time; maintaining privacy with regard to sexual harassment issues; performing responsibilities in a non-discriminatory manner; and maintaining a work environment that fosters sensitivity and respect for diversity.

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).
- ✓ The *Utilizing Human Resources* section of the agency’s managerial performance evaluation form, used during the period in review, stated, “[t]his accountability area covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner consistent with citywide EEO guidelines.”

VII. REPORTING STANDARD FOR AGENCY HEAD:

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

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports⁶ on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.
- The EEPC did not receive the agency’s Annual Plans of measures and programs to provide equal employment opportunity. **Corrective Action Required.**

⁶ Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.



Corrective Action #2: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

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

1. The agency head distributes a memorandum informing employees of any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPC's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

Final Action: Distribute a memorandum signed by the agency head informing employees of the EEPC's audit and any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPC's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

Conclusion

The agency has 2 required corrective action(s) at this time.

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

Optional Response to preliminary determination: If submitted, your optional response should indicate, with attached documentation, what steps your agency has taken or will take to implement the prescribed corrective actions, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the *preliminary determination*.

(Optional Conference) During the Optional Conference, we will discuss the immediate steps your agency should take and address questions regarding your agency's implementation of the prescribed corrective action(s).

(No Response Option) If your agency does not respond to this preliminary determination within 14 days, it will become the EEPC's Final Determination.

Mandatory Response to Final Determination: Following this preliminary determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective actions based on verified information; identify remaining action which requires further monitoring in order to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Chapter 36 of the New York City Charter your agency must respond to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance-monitoring period.



In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Menelik Allsop". The signature is written over a horizontal line.

Menelik Allsop, EEO Program Analyst

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, PHR
Executive Director

c: Amy Villafañe, Principal EEO Professional

Appendix – 1

Office of Collective Bargaining

CEEDS Report: *Workforce Composition Summary Report*

2nd Quarter Fiscal Year 2018

(End of Audit Period)

RUN DATE: 01/03/18
RUN TIME: 14:40:14.2

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
WORK FORCE COMPOSITION SUMMARY
AGENCY 313 OFFICE OF COLLECTIVE BARGAINING

PAGE: 162
REPORT: EBEP210

QUARTER 2 YEAR 2018

AGENCY TOTAL.....:	29.42	5	0	0	0	0	0	0	35.29	6	11.76	2	17.65	3	0.00	0	0.00	0	5.88	1	0.00	0	100.00	17
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Appendix - 2

Office of Collective Bargaining

OCB Diversity and Equal Employment Opportunity Policy 2017

MEMORANDUM

TO: Staff

FROM: EEO Officer

DATE: December 21, 2017

SUBJECT: Office of Collective Bargaining's
Diversity and Equal Employment Opportunity Policy

General Anti-Discrimination Protections:

The Office of Collective Bargaining (OCB) is a Diversity and Equal Employment Opportunity Employer. We are committed to advocate diversity and fair employment practices for our employees. Following is our enhanced and updated Diversity and Equal Employment Opportunity (EEO) Policy.

If any person feels that he or she has observed or been subjected to discriminatory behavior within the Office of Collective Bargaining please contact the Equal Employment Opportunity Officer. The EEO Officer is Amy Villafane, who may be contacted at (212) 306-7183. The EEO Officer has the authority to recommend to the Office of Collective Bargaining the appropriate action be taken against any person who has engaged in discriminatory behavior.

Office of Collective Bargaining- Specific Diversity and EEO Strategy

Our agency head, Ms. Susan Panepento is committed to ensure that fair employment practices, are promoted in our workplace; a workplace that values our employees and supports the City's diversity and inclusion strategy.

This commitment holds the EEO Officer, managers and supervisors accountable for ensuring that we do not discriminate against employees or applicants for employment and support the diversity and inclusion initiatives of our agency.

In conclusion, our goal is to ensure that our agency's commitments to fair employment practices are held to the highest level of integrity.

Equal Employment Opportunity Policy

The City of New York is an equal opportunity employer and prohibits discriminatory employment actions against and treatment of City employees and applicants for employment based on actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, **caregiver status**,¹ genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, and unemployment status, and **consumer credit history**.²

¹The protected category of "caregiver status" was added to the New York City's Human Rights Law on January 5, 2016, and took effect on May 4, 2016. A caregiver is defined as a person who provides direct and ongoing care for a minor child (under the age of 18) or a care recipient. A "care recipient" is defined as a person with a disability who is either a covered relative, or a person who resides in the caregiver's household and who relies on the caregiver for medical care or to meet the needs of daily living. A covered relative is defined as a caregiver's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of the caregiver's spouse or domestic partner, or any other individual in a familial relationship with the caregiver as designated by the rules of the New York City Commission on Human Rights.

²"Consumer credit history" was added as a protected category to the New York City Human Rights Law on May 6, 2015 and went into effect on September 3, 2015. Certain positions are exempt, such as police officers and peace officers. The New York City Commission on Human Rights has issued interpretative guidance (available on its website) on this law.

A. Types of Prohibited Conduct³

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

³ See also, EEO Policy Handbook, "*About EEO: What you May Not Know*," for more examples of prohibited conduct.

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

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

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

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

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

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

B. Applicability

Everyone who works within New York City government or its workplaces, or who seeks employment within City government, is covered by federal, state, and local employment laws, and this Policy. This includes all current employees, managers (including executives and senior level staff members), supervisors, co-workers, paid and unpaid interns,⁴ and job applicants.

⁴The prohibition of discrimination against interns was added in the New York City's Human Rights Law on April 15, 2014.

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

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

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

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

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

I. Specific Protections

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

A. Sexual Harassment

Sexual harassment is a form of employment discrimination which is prohibited by law. The federal government created guidelines which define sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.”⁵

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

B. Disabilities

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

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

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

⁵ Code of Federal Regulations, Title 29, Section 1604.11.

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

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

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

C. Religion

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

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

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

D. Retaliation

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

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

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

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

E. Domestic Violence, Sex Offenses, or Stalking

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

II. Procedures

A. Reporting Violations

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

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

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

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

B. Contact with the EEO Office

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

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

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

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

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

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

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

C. Withdrawing Complaints

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

D. Mediation

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

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

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

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

E. Concluding the Complaint Investigation

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

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

F. Other Places Where Complaints May Be Filed

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

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

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

Information about how to contact these agencies can be found in the EEO Policy Handbook, “*About EEO: What You May Not Know*,” http://www.nyc.gov/html/dcas/downloads/pdf/misc/about_eeo_booklet.pdf at the DCAS website at <http://www.nyc.gov/html/dcas/html/about/eeo.shtml> or the Office of Citywide Diversity and EEO at 1 Centre Street, 17th Floor North, New York, NY 10007, (212) 386-0257. Please note that there are statutory deadlines for filing complaints with each of these agencies.⁶

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

⁶The deadline in some instances is as short as 180 days. Therefore, to preserve their rights, individuals who believe that they have been discriminated against and wish to file a complaint with an external agency should promptly contact the City Commission on Human Rights, the State Division of Human Rights, the EEOC, the Department of Justice, or a private attorney for further guidance.

G. Requests for Reasonable Accommodations

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

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

1) Disabilities: An employee or job applicant with a disability who requests reasonable accommodations to enable him or her to satisfy the essential functions of the job or enjoy the rights in question may make such requests to his or her manager or supervisor, agency personnel supervising the application process, or directly to the agency EEO Officer or Disabilities Rights Coordinator.⁷ A request for a reasonable accommodation may be made orally or in writing. Where the request is made orally, it shall be documented by that person who receives the request.

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

By law, all documentation and information concerning the medical condition or history of an individual requesting a reasonable accommodation for a disability must be collected and maintained on separate forms, and in separate medical files, apart from other personnel data. Such information must be treated as confidential medical records, except that managers and supervisors may be informed of necessary restrictions on work and accommodations required. Furthermore, medical information may be provided: 1) to first-aid and safety personnel, if the disability might require emergency

treatment; 2) to government officials investigating the agency's compliance with applicable laws; 3) to workers' compensation offices in accordance with Workers' Compensation Law; and 4) for insurance purposes.

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

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

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

⁷ A Disability Rights Coordinator is responsible for ensuring compliance with federal, state, and local laws and the Policy regarding people with disabilities.

4) Pregnancy:⁸ An employee or job applicant requesting reasonable accommodations due to pregnancy and those who suffer medical conditions related to pregnancy, childbirth, or a related medical condition may make such requests to her manager or supervisor, agency personnel supervising the application process, or directly to the agency EEO Officer or Disability Rights Coordinator. Such a reasonable accommodation may include bathroom breaks; leave for a period of disability arising from pregnancy, childbirth, or related medical conditions; breaks to facilitate increased water intake; periodic rest for those who stand for long periods of time; and assistance with manual labor, among other things.

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

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

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

⁸The City's Human Rights Law was amended to include reasonable accommodations related to pregnancy, childbirth or related medical conditions effective January 30, 2014.

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

G. Confidentiality

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

H. Documentation

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

I. Additional Sources of Procedural Information

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

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

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

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

Additional Information and Programs

Executive Order No. 16 and the Civil Rights Laws Protect Transgender Individuals

On March 7 2016 the Mayor of the City of New York, Bill de Blasio ordered that transgender and gender non-conforming people be able to access single-sex facilities consistent with their gender identity and gender expression as a matter of safety and public health.

On May 4, 2016, The Department of Justice (DOJ) confirms Title IX, Title VII and VAWA prohibit discrimination against transgender individuals. They specified that bathroom policies preventing people from using the bathroom consistent with their gender identity are a violation of federal law.

55-a Program:

Section 55-a of the New York State Civil Service Law permits the City to convert as many as 700 competitive civil service lines to non-competitive civil service positions for people who can perform the job in question as needed by the agency, but who are certified as having a disability. The City encourages conversion of lines to 55-a status where agency needs permit. Application for such consideration may be obtained from:

OCB 55-a Coordinator, Amy Villafane
100 Gold Street, Suite 4800
New York, NY 10038
(212) 306-7183

Filing Contact Information:

You may file in person, by telephone, by mail or electronically. Always provide us with any information or papers that will help us understand your case.

Amy Villafane, OCB's EEO Officer
100 Gold Street, Suite 4800
New York, NY 10038
(212) 306-7183

Steven Star, EEO Investigator/Counselor
100 Gold Street, Suite 4800
New York, NY 10038
(212) 306-7180

Forms

- A. Discrimination Complaint Form
- B. Reasonable Accommodation Form



Complaint Form

Do not write in this space for OCB use only

Complaint #: _____

Complaint of Discrimination

(Please print the following information)

Name ERN Division/Office/Agency

Civil Service Title Office Title Supervisor

What is the alleged basis of discrimination?

(Please check all that apply)

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

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

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

Where did the alleged incident occur?

Were there witnesses to the discrimination? Yes ___ No ___

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

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

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

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

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

Complaint# _____ Date Filed: ___/___/___

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

What corrective action do you want taken?

Complaint of Discrimination

Description of Alleged Unlawful Discrimination

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

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

Date: ____/____/____

Complainant's Signature _____



REASONABLE ACCOMMODATION REQUEST FORM (FORM B)

This form and all information must be kept confidential.

APPLICANT/EMPLOYEE INFORMATION		
Print Full Name		<input type="checkbox"/> Job Applicant <input type="checkbox"/> Current Employee <input type="checkbox"/> Other
Home or Work Address		Phone Number
EMPLOYEE INFORMATION (Complete this section if you are working at the agency even if you are currently on leave.)		
Civil Service Title		Office Title
Office Telephone Number	Division	Supervisor Name and Phone Number
Location		
APPLICANT INFORMATION (Complete this section only if you are a <u>job applicant</u>)		
Position/Title Sought		Division/Unit (if known)
Location of Position (if known)		
Part(s) of employment process for which an accommodation is requested		
<input type="checkbox"/> Job Application	Job Vacancy Notice Number (if known):	

<input type="checkbox"/> Interview	Interview Date:
------------------------------------	-----------------

<input type="checkbox"/> At Work

<input type="checkbox"/> Other (please specify):
--

Agency Contact Person (if known)	Phone Number
----------------------------------	--------------

Basis of reasonable accommodation request:

Disability

Religion

Describe your religious belief/practice/observances and identify the accommodations that you request:

Status as Victim of Domestic Violence Sex Offenses or Stalking

Pregnancy, childbirth or a related medical condition

Identify the situation which requires accommodation.

Be specific. (Attach additional sheets of paper, if necessary.)

Is the condition for which you are requesting an accommodation

Permanent Temporary Unknown

If temporary, anticipated date accommodation(s) no longer needed:

Describe the nature of reasonable accommodation requested and how the accommodation will assist you to perform the essential functions of the position held or desired, or to enjoy the benefits and privileges of employment. Please be specific.
(Attach additional sheets and present supporting documentation as appropriate.)

If equipment is requested, please specify brand, model number and vendor, if known.

For Reasonable Accommodations based on Disability you may be required to provide verification by a health professional or a disability service provider (e.g. ACCESS-VR, NYS Commission for the Blind and Visually Impaired).

This CONFIDENTIAL documentation should be provided
to the Disabilities Rights Coordinator or EEO Officer.

Documentation must:

- Be written on the official letterhead of the qualified health professional or health professional's organization.
- Identify the health professional's credentials. e.g., M.D., D.O.
- Be dated and signed by the health professional.
- Describe the severity of the disability and its limitations in detail as they currently exist and only in relationship to the job.
- State whether the duration of disability is permanent or temporary or unknown.
- If temporary, specify the date the disability is expected to no longer require accommodation.
- Indicate the extent to which the accommodation will permit you to perform the essential functions of the job or to enjoy the benefits and privileges of employment.

I certify that I have read and understood the information provided in this request, and that it is true to the best of my knowledge, information and belief.

Date

Requestor's Signature/Authorized Agent

DO NOT WRITE IN THIS SECTION

To be completed by agency staff supervising the employment application process or supervising an employee requesting a reasonable accommodation. After completing, supervisors must provide a copy of the entire form to the employee or applicant, and immediately send a copy to the EEO Officer or DRC.

Name and Title of Supervisor or Staff supervising application process:

Unit/Division:

Location:

Phone Number:

Date Request Received:

<input type="checkbox"/> Supporting Documentation Included	<input type="checkbox"/> Supporting Documentation Not Included	Date:
--	--	-------

Signature

To be completed by the DRC or EEO Officer

Date Request Received by DRC or EEO Officer:

Date Supporting Documentation Received by DRC or EEO Officer (if any):

Signature

Appendix – 3

Office of Collective Bargaining

EEO Complaint Procedural Guidelines, City of New York 2016

EEO Complaint Procedural Guidelines

City of New York

2016



Department of Citywide Administrative Services

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THE CITY OF NEW YORK
EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT
PROCEDURAL GUIDELINES

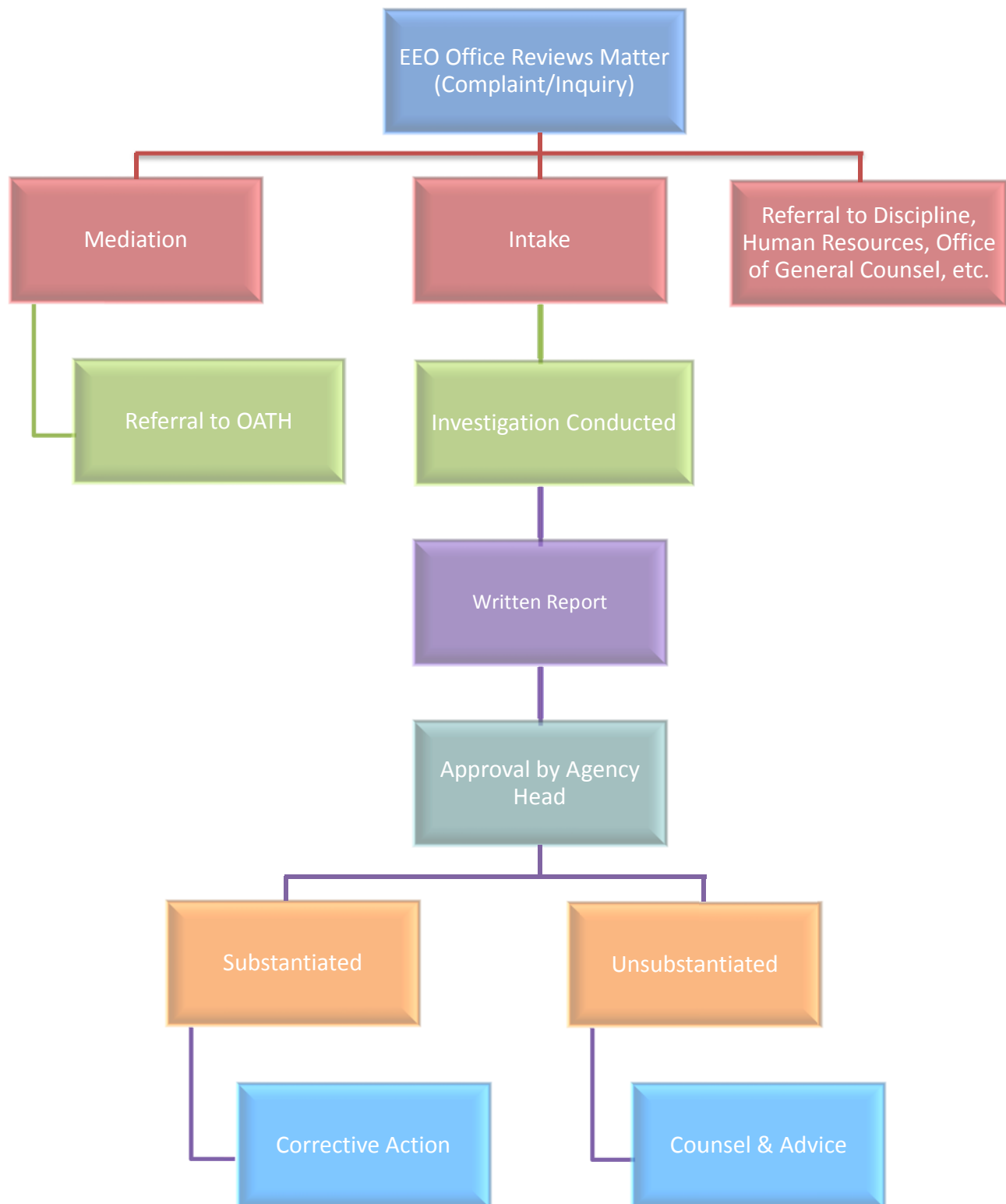
Overview

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

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

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

The EEO Complaint Process *at a Glance*



THE INTAKE PHASE

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

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

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

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

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

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

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

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

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

subsequent complaint involves separate allegations.

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

should be referred to the agency's EEO Officer.

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

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

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

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

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

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

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

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

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

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

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

MEDIATION

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

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

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

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

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

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

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

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

INVESTIGATION

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

Conducting Interviews

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

Notice to Respondent of the Complaint

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

Amending the Complaint

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

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

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

Right to be Accompanied by a Representative

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

Confidentiality and Record Keeping

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

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

Meeting with EEO Office and Obligation to Cooperate

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

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

False Allegations

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

Agency As Respondent

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

PREPARING THE FINAL REPORT

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

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

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

Informing Parties of Outcome

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

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

APPENDICES

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

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

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

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

SAMPLE A – Intake Form

[Insert agency name and logo]

Complaint #: _____

Date received: _____

Origin (circle one): Letter Telephone Office Visit Email

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

1. Contact Information

Name _____

Title _____ Employee ID# _____

Work Unit _____ Location _____

Work Telephone # _____ Shift _____

Home Address _____

City _____ State _____ Zip _____

Home Phone # _____

Cell Phone # _____ Email Address _____

2. Subject/Respondent Information

Name _____

Title _____ Employee ID# _____

Work Unit _____ Location _____

Work Telephone # _____ Shift _____

Home Address _____

City _____ State _____ Zip _____ Home Phone # _____

Cell Phone # _____ Email Address _____

Complaint #: _____

Describe the nature of the complaint

Attach additional sheets as necessary

- Supervisor Behavior Employee Behavior Employment Practice

What resolution are you seeking?

Action(s) taken by EEO Office

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

Date: _____

Department / Contact: _____

- Inquiry/Investigation Commenced

Complaint #: _____

SAMPLE B – Complaint Form

[Insert agency name and logo]

Complaint of Discrimination

(Please print the following information)

Name *ERN* Division/Office/Agency

Civil Service Title Office Title Supervisor

What is the alleged basis of discrimination?

(Please check all that apply)

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

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

y
ou.

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

Where did the alleged incident occur?

Were there witnesses to the discrimination? Yes _____ No _____

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

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

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

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

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

Complaint# _____ Date Filed: ____/____/____

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

What corrective action do you want taken?

Complaint of Discrimination

Page 2

Description of Alleged Unlawful Discrimination

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

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

Date: ____/____/____

Complainant's Signature _____

NOTICE

YOUR RIGHTS TO FILE A COMPLAINT WITH CIVIL RIGHTS ENFORCEMENT AGENCIES

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

NEW YORK CITY COMMISSION ON HUMAN RIGHTS

40 Rector Street

New York, NY 10006

(212) 306-7450

(212) 306-7686 (TTY)

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

NEW YORK STATE DIVISION OF HUMAN RIGHTS

One Fordham Plaza, 4th Floor

Bronx, NY 10458

(718) 741-8400

or

163 West 125th Street, 4th Floor

New York, NY 100270

(212) 961-8650

(212) 961-8999 (TTY)

or

20 Exchange Place, 2nd Floor

New York, NY 10005

(212) 480-2522

or

55 Hanson Place, 3rd Floor

Brooklyn, NY 11217

(718) 722-2856

Web site: www.nysdhr.com

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office

33 Whitehall Street, 5th Floor

New York, NY 10004

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

Web site: www.eeoc.gov

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

UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION

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

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

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

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

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

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

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

SAMPLE C – Witness Information Form

[Insert agency name and logo]

**WITNESS INFORMATION FORM
CONFIDENTIAL**

Complaint # _____

Complainant's Name: _____

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

Please complete a separate form for each witness

(Please Print)

Name: _____

Agency: _____

Division: _____

Civil Service or Office Title: _____

Address/Location: _____

Telephone :() _____

SAMPLE E – CHECKLIST: TYPICAL QUESTIONS TO ASK A COMPLAINANT

- What is the basis of your complaint?

- What is the specific behavior that you experienced?

- Who was engaged in the behavior?

- When did the incident(s) take place?

- Was the behavior repeated or has it happened before?

- How long has this been going on?

- Where did the incident take place?

- How, if at all, did you react?

- Was your ability to work affected in any way?

- How were you affected otherwise?

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

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

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

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

SAMPLE F – Acknowledgment of Receipt of Policy

[Insert agency name and logo]

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

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

Signature of Employee

Date

EEO Representative

Date

SAMPLE G – Inquiry Letter to Complainant

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

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

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

Sincerely,

EEO OFFICER

SAMPLE H – Notice of Discrimination Complaint

Complainant v. Respondent

On _____,
Date Complainant's Name(s)

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

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

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

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

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

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

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

EEO Officer or designee

Date

SAMPLE I – Request for Withdrawal of Complaint

[Insert agency name and logo]

RE: COMPLAINT # _____

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

I wish to withdraw this complaint because

Complainant's Signature

Date

FOR OFFICE USE ONLY

ACCEPTED: YES NO

COMMENTS:

EEO Office Representative Signature

Date

SAMPLE J – Administrative Closure Letter

[Insert agency name and logo]

Date

Ms. / Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

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

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

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

Sincerely,

EEO Officer

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

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

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

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date

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

Re: EEO Complaint #

Dear Ms. _____:

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

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

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

Dear Ms. _____:

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint # _____

Dear Ms. _____:

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

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date: _____

To: _____ [Agency Head]

From: _____ [EEO Officer or Investigator]

Re: _____ [EEO Complaint Number]

Complainant: _____

Respondent: _____

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

Statement of Basis of Complaint:

This complaint alleges discrimination in the form of _____

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

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

Summary of History of Complaint:

- _____

- _____

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

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

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

The documents that were reviewed are listed as follows:

- _____
- _____
- _____

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

- _____
- _____
- _____

Findings of Fact

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

- _____

- _____

- _____

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

- _____

- _____

Statement of Response:

The Respondent responded to the allegations by stating

Opinions:

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

Determination:

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

Conclusion and Recommendations:

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

Date: _____

[Signature] EEO Officer

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

The recommendations meet with my approval and will be adopted _____

The recommendations made above do NOT meet with my approval _____

Comments:

Date: _____

[Signature] Agency Head



Office of Collective Bargaining

OFFICE OF COLLECTIVE BARGAINING

100 Gold Street, 4th Floor
New York, N.Y. 10038
(212) 306-7160
FAX (212) 306-7167

IMPARTIAL MEMBERS

SUSAN J. PANEPENTO, CHAIR
ALAN R. VIANI
VACANT

DEPUTY CHAIRS

MONU SINGH
STEVEN E. STAR

CITY MEMBERS

M. DAVID ZURNDORFER
PAMELA S. SILVERBLATT

LABOR MEMBERS

CHARLES G. MOERDLER
GWYNNE A. WILCOX

September 19, 2018

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

Dear Ms. Terry:

OCB submits this response to your Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Office of Collective Bargaining (OCB)'s Sexual Harassment Prevention and Response Practices and its preliminary findings of two indications of non-compliance with the Equal Employment Practices Commission (EEPC) for Audit Period January 1, 2016 to December 31, 2017.

Corrective Actions # 1 & 2: Requirements for annual review, annual plan, and quarterly reports apply to Mayoral agencies. As a non-Mayoral agency, these requirements do not apply to OCB, thus OCB is not out of compliance and no corrective action is required. Moreover, OCB is a small agency with no history of sexual harassment complaints. The regular dialogue between the EEO Professional and General Counsel, as well as the review and promulgation of updated policies, satisfy OCB's relevant obligations.

In addition, regarding the summary of *the Sexual Harassment Prevention computer-based training* completion is now at 100%.

Sincerely,

Susan Panepento
Chair

cc: Menelik Allsop



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

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel

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

October 12, 2018

Susan Panepento
Chair
Office of Collective Bargaining
100 Gold Street, Suite 4800
New York, NY 10038

RE: Audit Resolution **#2018AP/224-313-(2018)**: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of Collective Bargaining's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Chair Panepento:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), we thank you for your September 13, 2018 response to our August 30, 2018 Preliminary Determination and for the cooperation extended to our staff during the course of this audit. Consistent with the powers and duties of agency heads, set forth in New York City Charter, this Commission requires your signed response to this Final Determination.

The Office of Collective Bargaining falls within this Commission's purview under Chapter 36, Section 831.a of the New York City Charter (Charter), which delineates city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

Section 815 of the Charter, which sets forth the duties of all heads of city agencies, mandates in Subdivision h, that "[t]he head of each city agency shall ensure that such agency does not discriminate against employees or applicants for employment as prohibited by federal, state and local law." To this end, Charter Section 815.a(19) specifies that "heads of city agencies shall have the following powers and duties... to establish measures and programs to ensure



**Equal Employment
Practices Commission**

a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women... and, in accordance with the uniform procedures and standards established... for this purpose, to adopt and implement an annual plan... [c]opies of such plans shall be filed with the... equal employment practices commission."

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

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

The assigned compliance monitoring period is: NOVEMBER 2018 TO APRIL 2019. Implementing all the corrective actions prior to the conclusion of the six months is highly encouraged and will serve to shorten the compliance monitoring period.

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

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

If there are further questions regarding this Final Determination or the compliance monitoring process, please have the Principal EEO Professional contact Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at jshaw@eepc.nyc.gov or 212-615-8942.

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



Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry, PHR
Executive Director

C: Amy Villafane, Principal EEO Professional, Office of Collective Bargaining

Enclosed: TeamCentral Agency Manual

FINAL DETERMINATION

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

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

After reviewing the agency's optional 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: 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.

Agency Response: "Requirements for annual review, annual plan, and quarterly reports apply to Mayoral agencies. As a non-Mayoral agency, these requirements do not apply to OCB, thus OCB is not out of compliance and no corrective action is required. Moreover, OCB is a small agency with no history of sexual harassment complaints. The regular dialogue between the EEO Professional and General Counsel, as well as the review and promulgation of updated policies, satisfy OCB's relevant obligations."

EEPC Response: The EEPC recognizes the agency's report of regular dialogue between the EEO Professional and General Counsel, and review and promulgation of updated policies, as its efforts to satisfy the requirements of this standard. At a minimum, the agency should commit to conducting a formal annual review of practices, policies and programs 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. Documentation of a formal review, or the commitment to conduct one, is required to close the compliance monitoring period.

Corrective Action #2: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

² Excerpts are italicized.

Agency Response: *“Requirements for annual review, annual plan, and quarterly reports apply to Mayoral agencies. As a non-Mayoral agency, these requirements do not apply to OCB, thus OCB is not out of compliance and no corrective action is required. Moreover, OCB is a small agency with no history of sexual harassment complaints. The regular dialogue between the EEO Professional and General Counsel, as well as the review and promulgation of updated policies, satisfy OCB’s relevant obligations.”*

EEPC Response: Charter Section 815.a(19), which sets forth the duties of all heads of city agencies, states that agency heads have the duty *“to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women... and, in accordance with the uniform procedures and standards established... for this purpose, to adopt and implement an annual plan... [c]opies of such plans shall be filed with the... equal employment practices commission.”* To close the compliance monitoring period, please submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

Thank you and your staff for your continued cooperation.

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

RESOLUTION #2018AP/223-313-(2018): Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Office of Collective Bargaining's Sexual Harassment Prevention and Response Practices from January 1, 2016 through December 31, 2017.

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

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

Whereas, pursuant to its audit of the Office of Collective Bargaining's (OCB) Sexual Harassment Prevention and Response Practices, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated August 30, 2018, setting forth findings and the following required corrective actions:

1. 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.
2. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

Whereas, the agency submitted its response to the EEPC's Preliminary Determination letter on September 13, 2018; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on September 21, 2018 which indicated that corrective action(s) nos. 1 and 2 require compliance monitoring; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC is required to monitor the agency for a period not to exceed six months, from October 2018 through March 2019, to determine whether it implemented the remaining required corrective actions; and

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

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

Be It Resolved, that the Commission approves issuance of this Final Determination to Susan Panepento, Chair of the Office of Collective Bargaining.

Approved unanimously on September 21, 2018.



Angela Cabrera
Commissioner



Arva Rice
Commissioner



Malini Cadambi Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner



OFFICE OF COLLECTIVE BARGAINING

November 5, 2018

OFFICE ADDRESS

100 Gold Street
Suite 4800
New York, New York 10038

MAILING ADDRESS

Peck Slip Station
PO Box 1018
New York, New York
10038-9991

Charise L. Terry, PHR
Executive Director
253 Broadway
Suite 602
New York, New York 10007

RE: OCB Actions in Response to Audit Resolution #2018AP/224-313-
(2018)

212.306.7160
www.ocb-nyc.org

Dear Ms. Terry:

IMPARTIAL MEMBERS

Susan J. Panepento, Chair
Alan R. Viani

LABOR MEMBERS

Charles G. Moerdler
Gwynne A. Wilcox

CITY MEMBERS

M. David Zurndorfer
Pamela S. Silverblatt

DEPUTY CHAIRS

Monu Singh
Steven Star

This letter is the Office of Collective Bargaining's response to your October 12, 2018, Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of Collective Bargaining's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Regarding Corrective Action #1, OCB has conducted a formal annual review of practices, policies and programs 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. This review was conducted in preparation for, and in conjunction with, the submission of OCB's Sexual Harassment Risk Assessment, documentation of which was submitted to DCAS on October 15, 2018, attached here for your reference, and uploaded to TeamCentral.

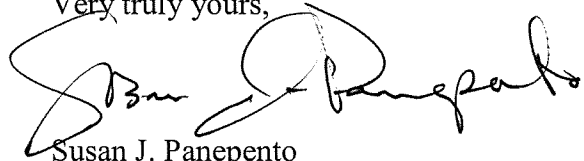
Regarding Corrective Action #2, OCB commits to developing an Annual Plan of measures and programs to provide equal employment opportunity for fiscal year 2019, and will upload a copy to TeamCentral when it is completed. We will use guidance provided by DCAS for FY 2019 Annual Diversity and EEO Plans and anticipate completion of our FY 2019 plan and submission to DCAS for approval prior to the end of the year. We will keep you updated concerning our implementation of this commitment.

In addition, attached please find a memorandum issued by the undersigned which re-emphasizes OCB's commitment to its EEO policy

and informs employees of the changes implemented pursuant to your audit. A copy of this memorandum has been uploaded to TeamCentral.

If you or your audit team have any further questions or concerns regarding OCB's implementation of the recommendations made in the audit report, please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read "Susan J. Panepento". The signature is fluid and cursive, with a large initial "S" and "P".


Susan J. Panepento
Director



OFFICE OF COLLECTIVE BARGAINING

MEMORANDUM

TO: All OCB Staff

FROM: Susan J. Panepento 

DATE: October 28, 2018

SUBJECT: Statement from the Director Regarding the Office of Collective Bargaining's Equal Employment Opportunity Policy and Implementation of EEPC Audit Findings

The Office of Collective Bargaining (OCB) is an Equal Employment Opportunity Employer. As the Chairperson, I am committed to advocating fair employment practices for our employees. In this regard, I hold OCB 's EEO representatives, managers and supervisors accountable for ensuring that this agency does not discriminate against employees or applicants for employment. I am further committed to ensuring that all new employees are advised of OCB 's EEO policy, their rights and responsibilities under that policy, and the available discrimination complaint and investigation procedures. This policy reflects the federal, state and local laws that prohibit discrimination in employment, the City of New York's Equal Employment Opportunity Policy, and OCB's own EEO Policy.

All OCB employees are directed to comply with this policy. All personnel should work to maintain an atmosphere of appreciation for the diversity reflected in our staff, and to promote understanding among our co-workers. Managers are directed to make all employment decisions in accordance with the OCB's EEO Policy, and to ensure compliance with the policy in their areas of responsibility. If any person has observed or been subjected to discriminatory behavior within the Office of Collective Bargaining, please contact either the Equal Employment Opportunity Officer or Counselor. The EEO Officer is Amy Villafane, who may be contacted at (212) 306-7183. The EEO Counselor is Steven Star, who may be contacted at (212) 306-7180.

The EEO Officer and Counselor have the authority to recommend to the Office of Collective Bargaining that appropriate action be taken against any person who has engaged in discriminatory behavior.



The NYC Equal Employment Practices Commission (“EEPC”) recently concluded an evaluation of the OCB’s Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017. In response to the findings of the EEPC evaluation, OCB provided a documented, formal annual review of practices, policies and programs 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. Additionally, OCB re-emphasized its commitment to its EEO policy, and will complete an Annual Plan of measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women.

I encourage all employees to access the resources available within OCB to address any concerns you may have. The implementation of the agency's Equal Employment Opportunity Policy has my full support.

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

RESOLUTION #2018AP/226-313-(2018)C23: Determination of Compliance (Monitoring Period Required) by the Office of Collective Bargaining with the Equal Employment Practices Commission's required corrective actions pursuant to the Review, Evaluation and Monitoring of the Sexual Harassment Prevention and Response Practices Audit from January 1, 2016 through December 31, 2017.

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

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

Whereas, pursuant to its audit and analysis of the Office of Collective Bargaining's (OCB) EEO Program, the EEPC issued a Preliminary Determination letter, dated August 30, 2018, setting forth findings and the following required corrective actions:

1. 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.
2. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

Whereas, the OCB submitted its response to the EEPC's Preliminary Determination letter on September 13, 2018; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC considered the agency's response and issued a Final Determination on October 12, 2018, which indicated corrective actions nos. 1 and 2 required compliance monitoring; and

Whereas, the OCB submitted its response to the EEPC's Final Determination letter on November 5, 2018; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC monitored the agency's implementation of the remaining corrective actions from November 2018 to December 2018, with no extension of the monitoring period; and

Whereas, at the EEPC's request pursuant to Charter Section 815.a.(15), the OCB submitted


a copy of the agency head's memorandum to staff dated October 28, 2018, which outlined the corrective actions implemented in response to the EEPC's audit and reiterated her commitment to the agency's EEO Program; and

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

Be It Resolved, that the Office of Collective Bargaining has implemented the required corrective actions deemed necessary to ensure compliance with the EEPC's equal employment opportunity standards and the requirements of Charter Chapters 35 and 36.

Be It Resolved, that the EEPC will forward this Determination of Compliance to Chairperson Susan Panepento of the Office of Collective Bargaining.


Approved unanimously on December 17, 2018.



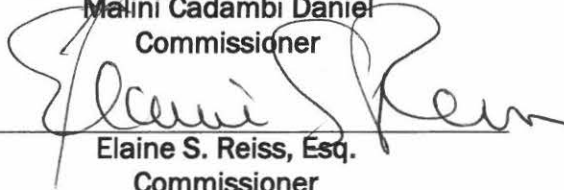
Angela Cabrera
Commissioner



Arva R. Rice
Commissioner



Malini Cadambi Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner



**Equal Employment
Practices Commission**

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

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel

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

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New York, NY 10007

212. 615. 8939 tel.
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December 17, 2018

Susan Panepento
Chair
Office of Collective Bargaining
100 Gold Street, Suite 4800
New York, NY 10038

Re: Resolution #2018AP/226-313-(2018)C23: Determination of
Agency Compliance

Dear Chairperson Panepento:

On behalf of the members of the Equal Employment Practices Commission (EEPC), I want to inform you that the EEPC has issued the attached Determination of Compliance to the Office of Collective Bargaining. The EEPC has determined that the Office of Collective Bargaining has implemented the required corrective actions deemed necessary for ensuring a fair and effective affirmative employment program of equal opportunity as required by the EEPC's equal employment opportunity standards and Chapters 35 and 36 of the New York City Charter.

On behalf of the EEPC, I want to thank you and EEO Officer Amy Villafane for the cooperation extended to the EEPC.

Sincerely,

Elaine S. Reiss, Esq.
Commissioner

c: Principal EEO Professional, Amy Villafane, Office of Collective
Bargaining

EEPC

EQUAL EMPLOYMENT PRACTICES COMMISSION



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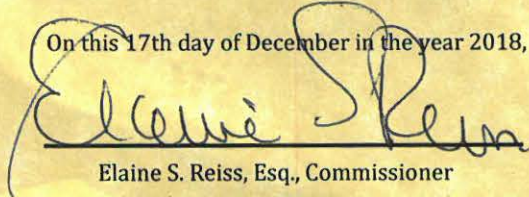
Determination of Compliance

is issued to the

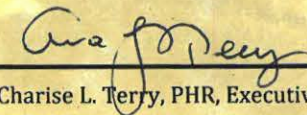
Office of Collective Bargaining

for successfully implementing 2 of 2 required corrective actions pursuant to the Equal Employment Practices Commission's Sexual Harassment Prevention and Response Practices Audit From January 1, 2016 to this date.

On this 17th day of December in the year 2018,



Elaine S. Reiss, Esq., Commissioner



Charise L. Terry, PHR, Executive Director

*In care of Chairperson Susan Panepento and
Principal EEO Professional Amy Villafane*