



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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June 20, 2003

John J. Murphy
Executive Director
New York City Employees' Retirement System
335 Adams Street, Suite 2300
Brooklyn, NY 11201-3751

Re: Final Letter of Determination Pursuant to the Audit of the New York City Employees' Retirement System (NYCERS) Equal Employment Opportunity Program from January 1, 2000 to June 30, 2002

Dear Mr. Murphy:

Thank you for your June 2, 2003 response to our Letter of Preliminary Determination pursuant to the audit of the New York City Employees' Retirement System's Equal Employment Opportunity Program from January 1, 2000 to June 30, 2002. After reviewing your response, our Final Determination is as follows:

Agree

We agree with your responses to the following EEPD recommendations:

Recommendation #2

The current Discrimination Complaint Procedures should be revised to include the name, location, and telephone number of the EEO Officer.

Recommendation #3

The agency should follow Section VII of the Citywide EEO Policy and ensure that its EEO Policies are available in formats accessible to applicants and employees with disabilities, e.g., audio cassette and Braille.

Recommendation #4

All agency recruitment literature, including website job advertisements, should indicate that NYCERS is an equal opportunity employer.

Recommendation #5

NYCERS should participate in the Section 55-A Program. At a minimum, the agency should obtain and distribute Program brochures issued by DCAS.

Recommendation #6

To ensure that persons of both sexes are available to receive and investigate discrimination complaints, NYCERS should follow-up on its pledge to appoint a male EEO Counselor.

Recommendation #7

The agency head should sign each EEO investigator's report containing findings and recommendations.

Recommendation #8

The EEO investigator should inform all parties in writing of the outcome of the investigation.

Recommendation #9

The EEO Officer should be involved in developing recruitment strategies or selecting recruitment media, including newspapers and other publications.

Recommendation #10

The agency EEO Officer should devote 100% of his or her time to EEO matters.

Disagree

For the following reasons, hereafter identified as "EEPC Rationale," we respectfully disagree with your responses to the following recommendation:

Recommendation #1

NYCERS should follow Section VIII of the Citywide EEO Policy and post its EEO Policies and Discrimination Complaint Procedures on agency bulletin boards.

Your Response

The EEOC [sic] policy is much too voluminous to post on a physical bulletin board. However, in addition to bulletin boards NYCERS has what we deem our electronic bulletin board, which we refer to as the *L Drive*. The *L Drive* is a drive that is available on the PC's of all NYCERS' employees. Any policies or procedures that apply to NYCERS staff, including EEO policies, are listed on the *L Drive*. When changes occur to any policies staff is notified electronically. It is understood that the present Citywide EEO Policy is being redrafted. We hope that the parties involved in the redrafting consider that the requirement to post copies of the EEO policy on bulletin boards is antiquated. Rather electronic posting of policies are much more

efficient for management and even more accessible to staff than one physical copy of a policy being posted on a bulletin board.

EEPC Rationale

The current Citywide EEO Policy unambiguously requires that city agencies physically post their EEO Policies on agency bulletin boards. The Citywide EEO Policy, issued in 1996, remains in effect until the current administration issues a new Policy. In addition, the Commission believes it would not be burdensome or impractical for NYCERS to post its 14-page EEO Policy, which includes the EEO and Sexual Harassment Policy as well as the EEO Complaint and Investigation Procedures.

Recommendation #11

To avoid the appearance or reality of conflict of interest, the agency should appoint an individual other than the Deputy Counsel to serve as EEO Officer.

Your Response

Once again NYCERS is a midsize agency. As a result most employees at NYCERS are civil servant status and such responsibility does not fall within their written job description. Of those that are non-civil servant the present EEO Officer is one of the most qualified employees to carry out the duties of the EEO Officer. If a matter does arise that may even slightly appear to be a conflict of interest, the EEO officer will quickly recuse herself and pass the matter off to her new male colleague. If there is a further conflict arising that will compromise her legal ethical duties the EEO Officer will pass any legal matters arising out of the potential conflict off to her legal colleagues to pursue.

EEPC Rationale

It is the EEPC's position that the Deputy Counsel should not be functioning as EEO Officer since she represents the agency in all legal matters and therefore cannot be a neutral arbiter of internal complaints. In addition, an effective EEO Program requires that the EEO Officer be an individual who is perceived as fair and neutral by other employees. Furthermore, other agencies audited by the EEPC, including borough presidents' offices, have agreed to remove their Counsels or Deputy Counsels from the EEO Officer title.

Recommendation #12

All employees should receive written notification of the identity, location, and telephone number of the agency's EEO Officer.

Your Response

All employees have access to the *Important Contact Lists*, if 66% of those surveyed stated that they do not know who the EEO Officer is, it is because they did not READ the contact list. This list is available to ALL employees on their L Drive and they were notified of such list in the past. Furthermore, since the EEO Policy has been amended to reflect the contact information for the EEO Officer and her male counterpart, all employees will be notified electronically of the updated information.

EEPC Rationale

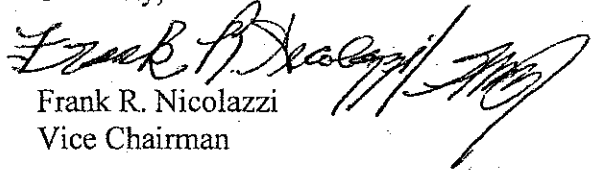
The Citywide EEO Policy, which remains in effect until the current administration issues a new Policy, requires that city agencies disseminate information about their EEO policies and EEO professionals in print form. NYCERS may follow Section VIII of the Citywide EEO Policy and distribute information about the EEO Officer in print form with employee paychecks or by memoranda to staff.

Conclusion

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance. If you choose to respond, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. Please have your EEO Officer contact our Executive Director, Mr. Abraham May, Jr., in seven days to inform us of your intentions.

In closing, we want to thank you and your staff for your cooperation during the audit process. We look forward to a mutually satisfactory compliance process.

Sincerely,


Frank R. Nicolazzi
Vice Chairman

c: Abraham May, Jr., Executive Director