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## **BY MAIL AND EMAIL**

June 22, 2017

Carmen Fariña  
Chancellor  
NYC Department of Education  
52 Chambers Street  
New York, NY, 10007

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Department of Education's Employment Practices and Procedures from January 1, 2014 to December 31, 2016.

Dear Chancellor Fariña:

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 Employment Practices and Procedures for the period covering January 1, 2014 to December 31, 2016.

The New York City Charter, 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 Department of Education, 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 employment practices and procedures, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*<sup>1</sup> 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 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; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7); the Americans with Disabilities Act and its Accessibility Guidelines; 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 which 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 collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System* (CEEDS).

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency's workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPC requests that the agency submit similar statistics and analysis.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

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, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct

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



additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

### Description of the Agency

The New York City Department of Education (DoE) is the branch of municipal government in New York City that manages the city's public school system. It is the largest school system in the United States, with over 1.1 million students taught in more than 1,700 schools. The DoE derives its powers from New York State law and is subject to the Regulations of the State Department of Education. The thirteen member body designated as the Board of Education in section 2590-b of the Educational Law is known as the Panel for Educational Policy – a part of the governance structure responsible for the City School District of the City of New York. Each borough president appoints one member of the Panel for Education Policy and the mayor appoints the remaining eight. Other parts of the structure include the Chancellor, superintendents, community and citywide councils, principals, and school leadership teams.

The agency did not provide workforce data requested in response to the EEPC's Audit. According to the *Financial Plan of the City of New York* for fiscal years 2016-2020, the agency's headcount as of June 30, 2016 was 119,084; 23,836 of which were non-pedagogical employees within EEPC jurisdiction. Audit findings pertain to non-pedagogical employees only.

### 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 partial - compliance with the standards for this subject area.

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ On November 19, 2014 and October 25, 2016 the Chancellor emailed all employees an EEO Policy statement entitled, *"Embracing a Diverse and Inclusive Workplace at the DoE"*; the EEO Policy statement reiterated the Chancellor's commitment to EEO by asserting *"As Chancellor, I am proud to reaffirm the DoE's continued commitment to diversity, inclusion, equal employment opportunities for employees, equal educational opportunities and real equity for students, and equal procurement opportunities for vendors. We need a diverse and inclusive workforce and workplace in order to achieve the vision of Equity & Excellence for all for the 1.1 million students we serve."* The policy statement included the email address, web address and phone number for the agency's Office of Equal Opportunity and Diversity Management (OEO), as well as a link to the *Chancellor's Regulation A-830 (Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination)*.

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 EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency’s EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
- ✓ The agency distributed its EEO Policy entitled, *A-830: Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination* which included the following sections: *Reporting; Complaint Procedures; Deadline for Filing A Complaint; Procedure for Filing Complaints; Dissemination of these Procedures; Disability; and Alternate Complaint Procedures*, which included current contact information for federal, state and local agencies that enforce laws against discrimination, and the telephone number, fax number, street and web addresses for the OEO. The policy is required to be given to employees annually and be prominently posted at each office and school. The *Anti-Discrimination Policy* also included a *Complaint of Alleged Discrimination form*. In addition, the agency also established an *A-830 Complaint Investigation Manual* which outlines the responsibilities of the OEO with regards to its response to discrimination complaints. Specifically it states, “[i]t is the duty of the OEO to review incoming complaints, determine whether they are jurisdictional, investigate the alleged violations by gathering testimonial and documentary evidence, make factual findings and ultimately determine whether or not a violation of Chancellor’s Regulation A-830 has occurred. This manual will discuss these facets of the complaint investigation process and the responsibilities of conducting an OEO complaint investigation. This manual represents a general overview. For further details, please refer to the additional materials provided by the Executive Director”.

The *A-830: Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination* and *A-830 Complaint Investigation Manual* were distributed to relevant employees via email, in-person during training sessions, and via online training sessions for Managers. The policies were also posted to the agency’s website and intranet. The agency reported that as part of in-person training, OEO Training Specialists advised that the Non-Discrimination Policy must be “conspicuously posted” at each worksite; and the agency’s *Office of Compliance Services* ensured, via annual compliance mandate, that school-based managers posted the agency’s *EEO Non- Discrimination* poster as part of their Compliance Checklist.

- The agency’s *A-830: Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination* and *A-830 Complaint Investigation Manual* did not include an up to date list of protected classes. Specifically, *caregiver status* and *consumer credit history* were not listed as classes protected from discrimination under New York City Human Rights Law. **Corrective action is required.**

**Corrective Action #1:** Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy*, that includes, or attach as addend, an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

## **II. EEO TRAINING FOR AGENCY:**

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

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.
- ✓ The OEO was responsible for ensuring that DoE employees received training on EEO matters which covered multiple topics and provided the following information: a brief introduction to federal, state, and local EEO laws; an in-depth description of Chancellor's Regulation A-830; the DoE's policy against discrimination and harassment; an overview of the protected classes and the EEO complaint process (including the policy against retaliation); a description of the processes for disability accommodations; and a description of the accommodation process for religious observance and victims of domestic violence, sexual offenses, or stalking.

During the period in review, 3,463 employees participated in *General Staff* training (including Supervisors and Managers); 76 employees participated in *Corrective Action* training; 90 employees participated in the new hires EEO training; 418 *Work Experience Program* employees who are protected under Chancellor's Regulation A-830; 62 participants in the Disability Accommodation. In addition to the aforementioned training, 5,833 employees also completed online EEO training which covered: *EEO laws and policies, Chancellor's Regulation A-830, DoE's Anti-Discrimination Policy, sexual harassment, workplace accommodations, DoE's EEO internal complaint process, and Preventing Discrimination and Promoting Diversity.*

Trainings were held at different intervals as necessitated by the target audience: *General Staff Training* (by request); *New Hire Orientation*, *Work Experience Program training*, *Corrective Action training*, and *other* (provided to staff not otherwise categorized such as school food services managers, district conferences, network staff, etc.). Furthermore, the agency's full time Disability Rights Coordinator DRC was responsible for educating managers and employees on the reasonable accommodation process and of the requirement to engage in the interactive process.



**III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):**

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

4. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
- ✓ *The agency's 2015-2016 Diversity and Inclusion Annual Report (2016 Annual Report) stated that the "DoE is taking steps to refine the agency's data collection methods and ensure that the collected data is as accurate as possible." The agency reported that it is looking to establish a Human Resource Information System capable of being synchronized with the agency's existing information systems and the New York City Automated Personnel System (NYCAPS) "in order to track applicants, new hires, and all other required data". The plan further asserted that "the DoE launched a fully funded diversity recruitment pilot program for managerial and non-managerial openings.... The agency participated in Monster.com's Diversity Job Network. Any DoE job posting placed in the DoE's designated job "slot" is simultaneously posted on all the diversity partner websites. Job postings included in Monster's Diversity Job Network target a wide audience, including, but not limited to, disabled individuals, veterans and members of the military, the LGBT community, minorities, and women. The Diversity Job Network consists of 200 professional networking sites and job boards partnered with Monster.com, including, but not limited to, Asianlife.com, an informative job site for Asian professionals; BlackNews.com, an online job directory for black professionals; Military.com, a vital community for veterans and members of the military; and Hireds.com, a leading staffing resource for professionals with disabilities." Pg. 51.*
- The agency did not demonstrate that it conducted an assessment of recruitment efforts to determine whether such efforts adversely impact any particular group or that it assessed the impact of its *diversity recruitment pilot program*. **Corrective action is required.**

**Corrective Action #2:** Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.

5. The principal EEO Professional, HR Professional, and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.

- ✓ Meeting invites from the period in review indicate the former Executive Director of OEO (the agency's principal EEO Professional) had one-on-one meetings with the agency's former General Counsel on a monthly basis. The OEO's former Executive Director and Diversity Management Unit Chief have also served on the *Employee Engagement & Development Advisory Committee*, which was hosted by the agency's Division of Human Resources ("DHR"). The committee worked on initiatives to support employee engagement and development, as well as to promote diversity and inclusion. Members of OEO's Diversity Management Unit, who report directly to the *current* Executive Director of OEO, serve on a joint task force with members of DHR's Organizational Development Unit, to discuss matters impacting OEO and DHR. The task force meets on a monthly basis.

OEO maintained records of the annual number of EEO complaints. The principal EEO professional advised the agency on an as-needed-basis of the best practices and legal requirements relating to employment and agency's EEO policies and programs.

- The agency reported that it did not have a mechanism in place to capture or analyze statistical information<sup>2</sup>, further the agency did not indicate what barriers were identified during the aforementioned meetings and what, if any, corrective actions are required to correct deficiencies. **Corrective action is required.**

**Corrective Action #3:** Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

6. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.
  - The agency reported that it did not conduct an assessment of the manner in which candidates were selected for employment, to determine whether there was any adverse impact upon any particular racial, ethnic, disability, or gender group. **Corrective action is required.**

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<sup>2</sup> In its 2014-2015 Annual Plan, the DoE committed to conducting a voluntary re-survey of the agency's workforce to ensure that race, ethnicity, and gender data collected by the agency is accurate. The 2015- 2016 Annual Report indicated that the re-survey was still ongoing.

**Corrective Action #4:** Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

7. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
  - The agency did not provide the requested statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender); or data which demonstrates its efforts to determine if women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring. (See §III.5 for further information.) **Corrective action is required.**

**Corrective Action #5:** If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

8. If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
  - The agency did not provide the requested statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender); or data which demonstrates its efforts to determine if women, minorities, or other protected groups are underrepresented in civil service (list) titles. (See §III.5 for further information.) **Corrective action is required.**

**Corrective Action #6:** If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.



9. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
- ✓ Human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring were required to adhere to the agency's "*Reference Guide for Establishing, Upgrading and Staffing Managerial and Administrative Positions*," which covers such topics as: *Job Descriptions, Hiring Exception Process, Recruitment and Selection, Authorization to Hire, Applicant Onboarding, Welcoming New Employees, Maintaining a Positive Workplace, Salary Increases, HR Services and Support, and Additional Human Capital Resources*.

The agency reported that in-house training on how to conduct effective interviews was conducted by Unit Chiefs at their discretion for their respective staff. The training focused on how to effectively identify and select qualified candidates, in furtherance of the agency's needs and mission to promote diversity and inclusion.

As reported in the agency's *2015-2016 Annual Report*, subsequent to the period in review, on January 28, 2017, staff members attended *Hiring Right: Selection Interview Training*, presented by the Department of Citywide Administrative Services. The training, targeted to managers and supervisors with hiring authority, equipped decision makers with the tools to make informed decisions regarding selection. In addition to modeling difficult interview situations, participants focused on creating clear and measurable job specifications, as well as behaviorally based-questioning, in order minimize decisions based on negative biases.

- The agency did not confirm that all personnel with hiring authority completed the *Hiring Right: Selection Interview Training*, or were otherwise trained to consider EEO laws/policies and use uniform job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide). **Corrective action required.**

**Corrective Action #7:** Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

10. Promote employees' awareness of opportunities for advancement and transfer within the agency by: administering incentive programs; publicizing promotions, including promotions into, or changes in, the managerial ranks; and/or using other methods to communicate internal opportunities.
- ✓ To ensure that all DoE employees were aware of available job openings, the agency developed a diversity and inclusion section of its intranet. Employees were encouraged to review internal job openings on a regular basis. The *Administrative Employee Unit* sent emails to all employees who are eligible to sit for upcoming promotional exams including individuals who were directly affected by upcoming examinations based on their permanent or provisional

status. The agency also promoted employees awareness of opportunities for advancement by setting an outgoing messages on the agency's *HR Connect* helpline that encourages employees to review and apply for current opportunities via the diversity and inclusion section of the DoE website. Training opportunities and job postings were made available via the agency's website. Employees were able to peruse the website (both inside and outside of the office) at their leisure and/or set up e-blast (notifications).

11. Ensure that employees are considered internally for career enhancement, development opportunities and transfer by: providing and encouraging training, development or mentorship programs to improve their performance and skills; establishing internal talent pools via cross-training, cross divisional assignments, job transfers, and/or job rotation; and identifying internal successors with applicable knowledge/skills/abilities.

- ✓ In 2014-2015 Annual Report the agency outlined an *Employee Engagement & Development Initiative* to "provide performance management, professional development, leadership development and engagement opportunities for all non-pedagogical employees." The agency's 2015-2016 Annual Report highlighted the success of this initiative stating that "over 2,500 employees participated in 142 learning and engagement opportunities activities aimed at building skills, expanding career pathways, and creating a more systematic culture of learning at Central offices."

In April 2016, the agency launched its *Emerging Leaders Program*, designed to build and strengthen the leadership capabilities of high performing employees - whose next career assignment may be in a Managerial or Supervisory capacity. Furthermore, the agency implemented an employee development and feedback program entitled, *Employee Feedback Cycle (EFC)*, designed to engage Central, field and Superintendent based employees and their supervisors/managers in goal setting, feedback, and development activities which will further employees' professional growth at the agency - "...[b]y linking personal goals and to team's goals and to the agency's overall priorities, employees will have a better understanding of what is expected of them and how their work relates to the agency's overarching mission." The EFC is comprised of: goal-setting (August - September), mid-year check-in (January - July), year-end check-in (June - July), and on-going, informal feedback discussions throughout the year.

12. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.

- ✓ The agency advertised several vacant positions during the period in review including: *Program Manager* (12149), *Manager of Charter Authorizing* (12206), *SEIS Junior Test Analyst*, (12209); *Manager of District School Design and Support* (12205); and *Director, New York State Assessments* (11876). Each job vacancy notice included the EEO tag line "An Equal Opportunity Employer".

13. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process

avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

- ✓ The agency maintained an applicant log that recorded *Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code, and Primary Phone*.
- The agency did not demonstrate that it used and maintained an applicant/candidate log or tracking system which captured in addition to the aforementioned information (*Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code and Primary Phone*): ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source for all applicants. **Corrective action is required.**

**NOTE:** The agency reported in its 2015-2016 Annual Plan that OEO is working closely with DHR to develop a new *Human Resources Information System* capable of synchronizing with the DoE's existing information systems and NYCAPS in order to collect and analyze applicant hiring and retention data. Furthermore, "*Analyzing data, such as an applicant flow report, (a collection of data that tracks applicants as they proceed through the DoE's application process) will allow the DoE to make the best strategic decisions regarding where diversity resources should be utilized.*"

**Corrective Action #8:** Use and maintain an applicant/candidate log or tracking system which, at minimum, in addition to the aforementioned information (*Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code and Primary Phone*) also captures *ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) and recruitment source* of each applicant. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

#### **IV. CAREER COUNSELING:**

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

14. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
- ✓ The DHR sent notices regarding civil service exams via email to all employees; additionally emails were sent by the *Administrative Employee Unit* to all employees who are eligible to sit for upcoming promotional exams; including individuals who were directly affected by upcoming examinations based on their permanent or provisional status.

**NOTE:** As Career Counseling is provided jointly by the DHR and the *Administrative Employee Unit*, the agency should formalize this procedure by notifying employees of the type of guidance available from these offices at least once each year.

15. The Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.
- ✓ HR Directors sent notices regarding civil service exams via email to all employees within their divisions; additionally emails were sent by the *Administrative Employee Unit* to all employees who are eligible to sit for upcoming promotional exams; including to individuals who were directly affected by upcoming examinations based on their permanent or provisional status. Training opportunities and job postings were made available via the agency's website and where employees could also set up *e-blast* (notifications).

As part of the on-boarding process, the DHR ensured that new employees were are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures by providing copies of the agency EEO policies (*Chancellor's Regulations, A-830 - Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination*) for which they were required to sign to confirm receipt. Other topics discussed at new employee orientation included the *Employee Engagement and Development Initiative, Diversity and Inclusion at the DoE; About Civil Service*; and the *Board of Education Retirement System*.

The Disability Unit ensured that the principal EEO Professional was informed of efforts the agency made in order to employ, promote or accommodate individuals with disabilities. The agency's 55-a Program Coordinator (the Director of the Administrative Employees Unit) ensured that the Principal HR Professional was informed of the number of program participants. The DHR met with the principal EEO Professional weekly to discuss the agency's EEO Program, training plans and allegations of EEO policy violation.

- Although the agency established the EFC program to engage Central, field and Superintendent based employees and their supervisors in goal setting, feedback, and development activities, the agency did not ensure that employees had access to information regarding job specific responsibilities or performance evaluation standards. (See §VII.22 for more information regarding EFC.) **Corrective action required.**

**Corrective Action #9:** Ensure that all employees have access to information regarding job responsibilities and performance evaluation standards.

**V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/  
 APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:**

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

16. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
- ✓ The agency reported that in addition to the availability of large print, EEO Policies were also available via *Job Access with Speech* (JAWS) computer software that enables individuals with visual impairments to either hear audio via text-to-speech feature or by a refreshable Braille display.
17. Document reasonable accommodation requests and their outcomes.
- ✓ All requests for accommodation were documented via the agency's *Accommodation Request* form which was provided in response to the audit. The agency reported that the Office of Leaves, Medical and Records (LMR) (within the DHR Office of Organization Services) processed all formal accommodation requests and reviewed any medical aspect of the request. After an accommodation request is made and a decision to either grant or deny the request is rendered, the LMR sends out a final notice alerting the employee (via regular mail and email), the employee's supervisor (via email) and OEO (via email) of such. OEO maintained a copy of all accommodation requests (granted and denied) along with the final notice in a filing system for each employee.

**VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:**

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

18. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable 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 complaints.
- ✓ The Executive Director of the *Office of Equal Opportunity and Diversity Management* was the agency's principal EEO Professional during the period in review. The principal EEO Professional was a practicing attorney for over twenty years who is familiar with facets of Employment Law through attendance at *Citywide Diversity & EEO Best Practices Meeting* held by DCAS in 2014; *Diversity & Inclusion Seminar* held by the Practicing Law Institute in 2014; *Diversity Conference* held by BNY Mellon in 2014; and *Accommodation Training* held by DCAS in 2015. The principal EEO Professional also worked on cases that involved allegations of discrimination. The principal EEO Professional remained abreast of current EEO laws, policies and procedures via annual attendance at the *EEOC Two-Day Technical Assistance Seminars*, and routine perusal of the EEOC, NY State Division of Human Rights and NYC Commission on Human Rights websites; monthly updates from the *National School Board Association Legal*



clips; and received information from *Diversity Inc.* and the *Job Accommodation Network*. Employees were notified of the principal EEO Professional's designation via email from the General Counsel. The name, title and contact information for the principal EEO Professional was accessible to all employees, during the period in review, via the agency's website and EEO Policy.

19. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EE Policy.
- ✓ In addition to the principal EEO Professional, the agency identified seventeen (17) *Complaint Investigators* who were responsible for complaint intake and investigations. The agency reported that members of the *Training, Diversity Management* and *Disability Units* as well as the Associate and Deputy Directors, also conducted complaint intake and investigations during the period in review.

The agency reported that all OEO employees who conducted complaint intake and investigations received one-on-one training with OEO's Complaint Unit Chief on the duties and functions of OEO and related EEO policies. Investigators were provided training on how to: *conduct an intake; determine jurisdiction; refer non-jurisdictional complaints to the appropriate individual or office; and, how to implement investigative procedures and best practices.* Additionally, *Complaint Investigators* were assigned to shadow a senior *Complaint Investigator* to further their practical learning and understanding of jurisdictional matters, interview procedures, and the investigative process. All interviews conducted by new *Complaint Investigators* were observed by Supervisors, who also held pre- and post-interview briefings to provide feedback. Additionally, *Complaint Investigators* were provided guidance on note taking, maintaining case files, obtaining documentary evidence, and report writing. *Complaint Investigators* were provided with feedback on their reports regarding application of EEO policy and analysis. The agency also conducted case reviews and any necessary progress meetings with each *Complaint Investigator* to provide guidance on investigations. Lastly, each *Complaint Investigator* completed *Basic Diversity and EEO for EEO Professionals* and *LGBT: Are you ready for the "T"* trainings conducted by DCAS.

New OEO employees who conduct intake and investigations were provided with the aforementioned training and guidance prior to conducting investigations and provided copies of: *Chancellor's Regulation A-830; OEO's A-830 Complaint Investigation Manual; DoE's Diversity and Inclusion Policy;* and, written materials about OEO, sexual harassment in the workplace, as well as policy and procedures for individuals with a disability.

20. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- During the period in review the principal EEO Professional reported to the Executive Deputy Counsel for Employment and General Practices – who is a direct report to the General Counsel. **Corrective action is required.**

**Corrective Action #10:** Ensure that the principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. Indicate the reporting relationship between the principal EEO Professional and agency head in the agency's organizational chart, EEO Policy and Annual EEO Plan.

21. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
- ✓ On December 21, 2016, the principal EEO Professional presented the agency's *2016 Annual Report* to the Chancellor (and other members of the Panel for Educational Policy). Additionally, the former Executive Director of the OEO, presented at meetings in which the Chancellor was in attendance on December 18, 2014, May 6, 2015, and December 16, 2015.
  - Outcomes or decisions made as a result of the meetings/presentation(s) which impacted the administration and operation of the EEO program were not documented. **Corrective action is required.**

**Corrective Action #11:** Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

## **VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:**

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

22. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.
- ✓ The agency established the EFC, a development and feedback process designed to engage Central, field and Superintendent based employees and their supervisors in goal setting, feedback, and development activities which will further employee's professional growth at the agency. The EFC is comprised of: goal-setting, mid-year check-in, year-end check-in, and on-going informal feedback discussions throughout the year.
  - The agency did not demonstrate it administered annual performance evaluations for managerial and non-managerial employees. The EFC policy states "*the EFC cannot be used punitively or to determine raises or promotions.*" The EFC is not a performance evaluation program, and did not result in any kind of rating or formal evaluation. There was no tracking process to ensure completion. Each office/division set a timeline and process for implementation of EFC that works within their respective functional areas. **Corrective action is required.**

**Corrective Action #12:** Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

23. 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 agency did not demonstrate the managerial employees were rated on the abovementioned EEO responsibilities. **Corrective action is required.**

**Corrective Action #13:** Ensure that 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).

#### **VIII. REPORTING STANDARD FOR AGENCY HEAD:**

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

24. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports<sup>3</sup> (up to 30 days following each quarter) on efforts to implement the plan.

- ✓ In response to the EEPC's request the agency provided a copy of its *New York City Department of Education 2015-2016 Diversity and Inclusion Annual Report*.
- The agency did not submit to the EEPC its 2014-2015 Annual Report of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the plans. **Corrective action is required.**

**NOTE:** Subsequent to period in review, on May 30, 2017 the agency submitted a copy of its *2014-2015 Diversity and Inclusion Annual Report*. The agency should submit to the EEPC its Annual Plan of measures and programs to provide equal employment opportunity in henceforth.

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<sup>3</sup>Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.

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

1. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

**Conclusion**

The agency has 13 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 "Ilacia N. Zuell", written over a horizontal line.

Ilacia N. Zuell, Supervisory EEO Program Analyst

Approved by,

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

Charise L. Terry, PHR  
Executive Director

c: Laura Hemans Brantley, Executive Director, OEO, DoE  
Vicki Bernstein, Senior Executive Director, DHR, DoE





Angela Cabrera  
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## BY MAIL AND EMAIL

July 10, 2017

Carmen Fariña  
Chancellor  
NYC Department of Education  
52 Chambers Street  
New York, NY, 10007

RE: Audit Resolution #**2017/212-740**: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Department of Education Employment Practices and Procedures from January 1, 2014 to December 31, 2016

Dear Chancellor Fariña:

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.

As the EEPC did not receive the Department of Education's response to our June 22, 2017 Preliminary Determination within 14 days from the date of its issuance, and consistent with the audit protocol referenced therein, the attached Determination is now Final.

As indicated in our Preliminary Determination, this Commission has adopted uniform standards<sup>1</sup> 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 6-month compliance period to monitor your agency's efforts to eliminate remaining required corrective actions; and 2) the**

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<sup>1</sup> 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; Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7) and the equal employment opportunity requirements of the New York City Charter.



agency provide a written response within 30 days from the date of this letter indicating corrective action taken.

The assigned compliance-monitoring period is: August 2017 to January 2018.


**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 which 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 which 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 call Janet P. Ford, Esq., Agency Counsel/Director of Compliance Monitoring at 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,

  
Charise L. Terry, PHR  
Executive Director

c: Laura Hemans Brantley, Executive Director, OEO, DoE  
Vicki Bernstein, Senior Executive Director, DHR, DoE



**Final Determination: July 10, 2017**

**Angela Cabrera**  
**Malini Cadambi Daniel**  
**Elaine S. Reiss, Esq.**  
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**BY MAIL AND EMAIL**

June 22, 2017

Carmen Fariña  
Chancellor  
NYC Department of Education  
52 Chambers Street  
New York, NY, 10007

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Department of Education's Employment Practices and Procedures from January 1, 2014 to December 31, 2016.

Dear Chancellor Fariña:

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 Employment Practices and Procedures for the period covering January 1, 2014 to December 31, 2016.

The New York City Charter, 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 Department of Education, 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 employment practices and procedures, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*<sup>1</sup> 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 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; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7); the Americans with Disabilities Act and its Accessibility Guidelines; 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 which 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 collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System* (CEEDS).

This Commission reviews the workforce statistics and utilization analysis information available via CEEDS to understand the concentrations of race and gender groups within an agency's workforce. (CEEDS may be unavailable for certain non-mayoral agencies. In such cases, the EEPC requests that the agency submit similar statistics and analysis.) EEO Program Analysts examine imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Personnel transactions are reviewed in order to ascertain the agency's employment practices. Where underutilization is revealed within an agency's workforce, EEO Program Analysts assess whether the agency has undertaken reasonable measures to address it.

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, 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a two-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct

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

additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

### **Description of the Agency**

The New York City Department of Education (DoE) is the branch of municipal government in New York City that manages the city's public school system. It is the largest school system in the United States, with over 1.1 million students taught in more than 1,700 schools. The DoE derives its powers from New York State law and is subject to the Regulations of the State Department of Education. The thirteen member body designated as the Board of Education in section 2590-b of the Educational Law is known as the Panel for Educational Policy – a part of the governance structure responsible for the City School District of the City of New York. Each borough president appoints one member of the Panel for Education Policy and the mayor appoints the remaining eight. Other parts of the structure include the Chancellor, superintendents, community and citywide councils, principals, and school leadership teams.

The agency did not provide workforce data requested in response to the EEPC's Audit. According to the *Financial Plan of the City of New York* for fiscal years 2016-2020, the agency's headcount as of June 30, 2016 was 119,084; 23,836 of which were non-pedagogical employees within EEPC jurisdiction. Audit findings pertain to non-pedagogical employees only.

### **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 partial - compliance with the standards for this subject area.

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ On November 19, 2014 and October 25, 2016 the Chancellor emailed all employees an EEO Policy statement entitled, *"Embracing a Diverse and Inclusive Workplace at the DoE"*; the EEO Policy statement reiterated the Chancellor's commitment to EEO by asserting *"As Chancellor, I am proud to reaffirm the DoE's continued commitment to diversity, inclusion, equal employment opportunities for employees, equal educational opportunities and real equity for students, and equal procurement opportunities for vendors. We need a diverse and inclusive workforce and workplace in order to achieve the vision of Equity & Excellence for all for the 1.1 million students we serve."* The policy statement included the email address, web address and phone number for the agency's Office of Equal Opportunity and Diversity Management (OEO), as well as a link to the *Chancellor's Regulation A-830 (Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination)*.



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 EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency’s EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
- ✓ The agency distributed its EEO Policy entitled, *A-830: Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination* which included the following sections: *Reporting; Complaint Procedures; Deadline for Filing A Complaint; Procedure for Filing Complaints; Dissemination of these Procedures; Disability; and Alternate Complaint Procedures*, which included current contact information for federal, state and local agencies that enforce laws against discrimination, and the telephone number, fax number, street and web addresses for the OEO. The policy is required to be given to employees annually and be prominently posted at each office and school. The *Anti-Discrimination Policy* also included a *Complaint of Alleged Discrimination form*. In addition, the agency also established an *A-830 Complaint Investigation Manual* which outlines the responsibilities of the OEO with regards to its response to discrimination complaints. Specifically it states, “[i]t is the duty of the OEO to review incoming complaints, determine whether they are jurisdictional, investigate the alleged violations by gathering testimonial and documentary evidence, make factual findings and ultimately determine whether or not a violation of Chancellor’s Regulation A-830 has occurred. This manual will discuss these facets of the complaint investigation process and the responsibilities of conducting an OEO complaint investigation. This manual represents a general overview. For further details, please refer to the additional materials provided by the Executive Director”.

The *A-830: Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination* and *A-830 Complaint Investigation Manual* were distributed to relevant employees via email, in-person during training sessions, and via online training sessions for Managers. The policies were also posted to the agency’s website and intranet. The agency reported that as part of in-person training, OEO Training Specialists advised that the Non-Discrimination Policy must be “conspicuously posted” at each worksite; and the agency’s *Office of Compliance Services* ensured, via annual compliance mandate, that school-based managers posted the agency’s *EEO Non- Discrimination* poster as part of their Compliance Checklist.

- The agency’s *A-830: Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination* and *A-830 Complaint Investigation Manual* did not include an up to date list of protected classes. Specifically, *caregiver status* and *consumer credit history* were not listed as classes protected from discrimination under New York City Human Rights Law. **Corrective action is required.**

**Corrective Action #1:** Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy*, that includes, or attach as addend, an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

**II. EEO TRAINING FOR AGENCY:**

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

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.
- ✓ The OEO was responsible for ensuring that DoE employees received training on EEO matters which covered multiple topics and provided the following information: a brief introduction to federal, state, and local EEO laws; an in-depth description of Chancellor's Regulation A-830; the DoE's policy against discrimination and harassment; an overview of the protected classes and the EEO complaint process (including the policy against retaliation); a description of the processes for disability accommodations; and a description of the accommodation process for religious observance and victims of domestic violence, sexual offenses, or stalking.

During the period in review, 3,463 employees participated in *General Staff* training (including Supervisors and Managers); 76 employees participated in *Corrective Action* training; 90 employees participated in the new hires EEO training; 418 *Work Experience Program* employees who are protected under Chancellor's Regulation A-830; 62 participants in the Disability Accommodation. In addition to the aforementioned training, 5,833 employees also completed online EEO training which covered: *EEO laws and policies, Chancellor's Regulation A-830, DoE's Anti-Discrimination Policy, sexual harassment, workplace accommodations, DoE's EEO internal complaint process, and Preventing Discrimination and Promoting Diversity.*

Trainings were held at different intervals as necessitated by the target audience: *General Staff Training* (by request); *New Hire Orientation*, *Work Experience Program training*, *Corrective Action training*, and *other* (provided to staff not otherwise categorized such as school food services managers, district conferences, network staff, etc.). Furthermore, the agency's full time Disability Rights Coordinator DRC was responsible for educating managers and employees on the reasonable accommodation process and of the requirement to engage in the interactive process.

**III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion):**

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

4. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
- ✓ *The agency's 2015-2016 Diversity and Inclusion Annual Report (2016 Annual Report) stated that the "DoE is taking steps to refine the agency's data collection methods and ensure that the collected data is as accurate as possible." The agency reported that it is looking to establish a Human Resource Information System capable of being synchronized with the agency's existing information systems and the New York City Automated Personnel System (NYCAPS) "in order to track applicants, new hires, and all other required data". The plan further asserted that "the DoE launched a fully funded diversity recruitment pilot program for managerial and non-managerial openings.... The agency participated in Monster.com's Diversity Job Network. Any DoE job posting placed in the DoE's designated job "slot" is simultaneously posted on all the diversity partner websites. Job postings included in Monster's Diversity Job Network target a wide audience, including, but not limited to, disabled individuals, veterans and members of the military, the LGBT community, minorities, and women. The Diversity Job Network consists of 200 professional networking sites and job boards partnered with Monster.com, including, but not limited to, Asianlife.com, an informative job site for Asian professionals; BlackNews.com, an online job directory for black professionals; Military.com, a vital community for veterans and members of the military; and Hireds.com, a leading staffing resource for professionals with disabilities." Pg. 51.*
- The agency did not demonstrate that it conducted an assessment of recruitment efforts to determine whether such efforts adversely impact any particular group or that it assessed the impact of its *diversity recruitment pilot program*. **Corrective action is required.**

**Corrective Action #2:** Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.

5. The principal EEO Professional, HR Professional, and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.

- ✓ Meeting invites from the period in review indicate the former Executive Director of OEO (the agency's principal EEO Professional) had one-on-one meetings with the agency's former General Counsel on a monthly basis. The OEO's former Executive Director and Diversity Management Unit Chief have also served on the *Employee Engagement & Development Advisory Committee*, which was hosted by the agency's Division of Human Resources ("DHR"). The committee worked on initiatives to support employee engagement and development, as well as to promote diversity and inclusion. Members of OEO's Diversity Management Unit, who report directly to the *current* Executive Director of OEO, serve on a joint task force with members of DHR's Organizational Development Unit, to discuss matters impacting OEO and DHR. The task force meets on a monthly basis.

OEO maintained records of the annual number of EEO complaints. The principal EEO professional advised the agency on an as-needed-basis of the best practices and legal requirements relating to employment and agency's EEO policies and programs.

- The agency reported that it did not have a mechanism in place to capture or analyze statistical information<sup>2</sup>, further the agency did not indicate what barriers were identified during the aforementioned meetings and what, if any, corrective actions are required to correct deficiencies. **Corrective action is required.**

**Corrective Action #3:** Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

6. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.
  - The agency reported that it did not conduct an assessment of the manner in which candidates were selected for employment, to determine whether there was any adverse impact upon any particular racial, ethnic, disability, or gender group. **Corrective action is required.**

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<sup>2</sup> In its 2014-2015 Annual Plan, the DoE committed to conducting a voluntary re-survey of the agency's workforce to ensure that race, ethnicity, and gender data collected by the agency is accurate. The 2015- 2016 Annual Report indicated that the re-survey was still ongoing.

**Corrective Action #4:** Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

7. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

➤ The agency did not provide the requested statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender); or data which demonstrates its efforts to determine if women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring. (See §III.5 for further information.) **Corrective action is required.**

**Corrective Action #5:** If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

8. If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

➤ The agency did not provide the requested statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender); or data which demonstrates its efforts to determine if women, minorities, or other protected groups are underrepresented in civil service (list) titles. (See §III.5 for further information.) **Corrective action is required.**

**Corrective Action #6:** If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.



9. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
- ✓ Human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring were required to adhere to the agency's *"Reference Guide for Establishing, Upgrading and Staffing Managerial and Administrative Positions,"* which covers such topics as: *Job Descriptions, Hiring Exception Process, Recruitment and Selection, Authorization to Hire, Applicant Onboarding, Welcoming New Employees, Maintaining a Positive Workplace, Salary Increases, HR Services and Support, and Additional Human Capital Resources.*

The agency reported that in-house training on how to conduct effective interviews was conducted by Unit Chiefs at their discretion for their respective staff. The training focused on how to effectively identify and select qualified candidates, in furtherance of the agency's needs and mission to promote diversity and inclusion.

As reported in the agency's *2015-2016 Annual Report*, subsequent to the period in review, on January 28, 2017, staff members attended *Hiring Right: Selection Interview Training*, presented by the Department of Citywide Administrative Services. The training, targeted to managers and supervisors with hiring authority, equipped decision makers with the tools to make informed decisions regarding selection. In addition to modeling difficult interview situations, participants focused on creating clear and measurable job specifications, as well as behaviorally based-questioning, in order minimize decisions based on negative biases.

- The agency did not confirm that all personnel with hiring authority completed the *Hiring Right: Selection Interview Training*, or were otherwise trained to consider EEO laws/policies and use uniform job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide). **Corrective action required.**

**Corrective Action #7:** Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).

10. Promote employees' awareness of opportunities for advancement and transfer within the agency by: administering incentive programs; publicizing promotions, including promotions into, or changes in, the managerial ranks; and/or using other methods to communicate internal opportunities.
- ✓ To ensure that all DoE employees were aware of available job openings, the agency developed a diversity and inclusion section of its intranet. Employees were encouraged to review internal job openings on a regular basis. The *Administrative Employee Unit* sent emails to all employees who are eligible to sit for upcoming promotional exams including individuals who were directly affected by upcoming examinations based on their permanent or provisional

status. The agency also promoted employees awareness of opportunities for advancement by setting an outgoing messages on the agency's *HR Connect* helpline that encourages employees to review and apply for current opportunities via the diversity and inclusion section of the DoE website. Training opportunities and job postings were made available via the agency's website. Employees were able to peruse the website (both inside and outside of the office) at their leisure and/or set up e-blast (notifications).

11. Ensure that employees are considered internally for career enhancement, development opportunities and transfer by: providing and encouraging training, development or mentorship programs to improve their performance and skills; establishing internal talent pools via cross-training, cross divisional assignments, job transfers, and/or job rotation; and identifying internal successors with applicable knowledge/skills/abilities.

- ✓ In 2014-2015 Annual Report the agency outlined an *Employee Engagement & Development Initiative* to "provide performance management, professional development, leadership development and engagement opportunities for all non-pedagogical employees." The agency's 2015-2016 Annual Report highlighted the success of this initiative stating that "over 2,500 employees participated in 142 learning and engagement opportunities activities aimed at building skills, expanding career pathways, and creating a more systematic culture of learning at Central offices."

In April 2016, the agency launched its *Emerging Leaders Program*, designed to build and strengthen the leadership capabilities of high performing employees - whose next career assignment may be in a Managerial or Supervisory capacity. Furthermore, the agency implemented an employee development and feedback program entitled, *Employee Feedback Cycle (EFC)*, designed to engage Central, field and Superintendent based employees and their supervisors/managers in goal setting, feedback, and development activities which will further employees' professional growth at the agency - "...[b]y linking personal goals and to team's goals and to the agency's overall priorities, employees will have a better understanding of what is expected of them and how their work relates to the agency's overarching mission." The EFC is comprised of: goal-setting (August - September), mid-year check-in (January - July), year-end check-in (June - July), and on-going, informal feedback discussions throughout the year.

12. At minimum, indicate the agency is an equal opportunity employer in recruitment literature.

- ✓ The agency advertised several vacant positions during the period in review including: *Program Manager* (12149), *Manager of Charter Authorizing* (12206), *SEIS Junior Test Analyst*, (12209); *Manager of District School Design and Support* (12205); and *Director, New York State Assessments* (11876). Each job vacancy notice included the EEO tag line "An Equal Opportunity Employer".

13. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process

avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

- ✓ The agency maintained an applicant log that recorded *Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code, and Primary Phone*.
- The agency did not demonstrate that it used and maintained an applicant/candidate log or tracking system which captured in addition to the aforementioned information (*Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code and Primary Phone*): ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source for all applicants. **Corrective action is required.**

**NOTE:** The agency reported in its 2015-2016 Annual Plan that OEO is working closely with DHR to develop a new *Human Resources Information System* capable of synchronizing with the DoE's existing information systems and NYCAPS in order to collect and analyze applicant hiring and retention data. Furthermore, "*Analyzing data, such as an applicant flow report, (a collection of data that tracks applicants as they proceed through the DoE's application process) will allow the DoE to make the best strategic decisions regarding where diversity resources should be utilized.*"

**Corrective Action #8:** Use and maintain an applicant/candidate log or tracking system which, at minimum, in addition to the aforementioned information (*Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code and Primary Phone*) also captures *ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) and recruitment source* of each applicant. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

#### **IV. CAREER COUNSELING:**

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

14. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
- ✓ The DHR sent notices regarding civil service exams via email to all employees; additionally emails were sent by the *Administrative Employee Unit* to all employees who are eligible to sit for upcoming promotional exams; including individuals who were directly affected by upcoming examinations based on their permanent or provisional status.

**NOTE:** As Career Counseling is provided jointly by the DHR and the *Administrative Employee Unit*, the agency should formalize this procedure by notifying employees of the type of guidance available from these offices at least once each year.

15. The Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.
- ✓ HR Directors sent notices regarding civil service exams via email to all employees within their divisions; additionally emails were sent by the *Administrative Employee Unit* to all employees who are eligible to sit for upcoming promotional exams; including to individuals who were directly affected by upcoming examinations based on their permanent or provisional status. Training opportunities and job postings were made available via the agency's website and where employees could also set up *e-blast* (notifications).

As part of the on-boarding process, the DHR ensured that new employees were are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures by providing copies of the agency EEO policies (*Chancellor's Regulations, A-830 - Anti-Discrimination Policy and Procedures for Filing Internal Complaints of Discrimination*) for which they were required to sign to confirm receipt. Other topics discussed at new employee orientation included the *Employee Engagement and Development Initiative, Diversity and Inclusion at the DoE; About Civil Service*; and the *Board of Education Retirement System*.

The Disability Unit ensured that the principal EEO Professional was informed of efforts the agency made in order to employ, promote or accommodate individuals with disabilities. The agency's 55-a Program Coordinator (the Director of the Administrative Employees Unit) ensured that the Principal HR Professional was informed of the number of program participants. The DHR met with the principal EEO Professional weekly to discuss the agency's EEO Program, training plans and allegations of EEO policy violation.

- Although the agency established the EFC program to engage Central, field and Superintendent based employees and their supervisors in goal setting, feedback, and development activities, the agency did not ensure that employees had access to information regarding job specific responsibilities or performance evaluation standards. (See §VII.22 for more information regarding EFC.) **Corrective action required.**

**Corrective Action #9:** Ensure that all employees have access to information regarding job responsibilities and performance evaluation standards.

**V. EEO AND REASONABLE ACCOMMODATIONS FOR EMPLOYEES/  
APPLICANTS FOR EMPLOYMENT WITH DISABILITIES:**

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

16. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.
- ✓ The agency reported that in addition to the availability of large print, EEO Policies were also available via *Job Access with Speech* (JAWS) computer software that enables individuals with visual impairments to either hear audio via text-to-speech feature or by a refreshable Braille display.
17. Document reasonable accommodation requests and their outcomes.
- ✓ All requests for accommodation were documented via the agency's *Accommodation Request* form which was provided in response to the audit. The agency reported that the Office of Leaves, Medical and Records (LMR) (within the DHR Office of Organization Services) processed all formal accommodation requests and reviewed any medical aspect of the request. After an accommodation request is made and a decision to either grant or deny the request is rendered, the LMR sends out a final notice alerting the employee (via regular mail and email), the employee's supervisor (via email) and OEO (via email) of such. OEO maintained a copy of all accommodation requests (granted and denied) along with the final notice in a filing system for each employee.

**VI. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION - EEO PROFESSIONALS:**

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

18. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable 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 complaints.
- ✓ The Executive Director of the *Office of Equal Opportunity and Diversity Management* was the agency's principal EEO Professional during the period in review. The principal EEO Professional was a practicing attorney for over twenty years who is familiar with facets of Employment Law through attendance at *Citywide Diversity & EEO Best Practices Meeting* held by DCAS in 2014; *Diversity & Inclusion Seminar* held by the Practicing Law Institute in 2014; *Diversity Conference* held by BNY Mellon in 2014; and *Accommodation Training* held by DCAS in 2015. The principal EEO Professional also worked on cases that involved allegations of discrimination. The principal EEO Professional remained abreast of current EEO laws, policies and procedures via annual attendance at the *EEOC Two-Day Technical Assistance Seminars*, and routine perusal of the EEOC, NY State Division of Human Rights and NYC Commission on Human Rights websites; monthly updates from the *National School Board Association Legal*



clips; and received information from *Diversity Inc.* and the *Job Accommodation Network*. Employees were notified of the principal EEO Professional's designation via email from the General Counsel. The name, title and contact information for the principal EEO Professional was accessible to all employees, during the period in review, via the agency's website and EEO Policy.

19. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EE Policy.
- ✓ In addition to the principal EEO Professional, the agency identified seventeen (17) *Complaint Investigators* who were responsible for complaint intake and investigations. The agency reported that members of the *Training, Diversity Management* and *Disability Units* as well as the Associate and Deputy Directors, also conducted complaint intake and investigations during the period in review.

The agency reported that all OEO employees who conducted complaint intake and investigations received one-on-one training with OEO's Complaint Unit Chief on the duties and functions of OEO and related EEO policies. Investigators were provided training on how to: *conduct an intake; determine jurisdiction; refer non-jurisdictional complaints to the appropriate individual or office; and, how to implement investigative procedures and best practices*. Additionally, *Complaint Investigators* were assigned to shadow a senior *Complaint Investigator* to further their practical learning and understanding of jurisdictional matters, interview procedures, and the investigative process. All interviews conducted by new *Complaint Investigators* were observed by Supervisors, who also held pre- and post-interview briefings to provide feedback. Additionally, *Complaint Investigators* were provided guidance on note taking, maintaining case files, obtaining documentary evidence, and report writing. *Complaint Investigators* were provided with feedback on their reports regarding application of EEO policy and analysis. The agency also conducted case reviews and any necessary progress meetings with each *Complaint Investigator* to provide guidance on investigations. Lastly, each *Complaint Investigator* completed *Basic Diversity and EEO for EEO Professionals* and *LGBT: Are you ready for the "T"* trainings conducted by DCAS.

New OEO employees who conduct intake and investigations were provided with the aforementioned training and guidance prior to conducting investigations and provided copies of: *Chancellor's Regulation A-830; OEO's A-830 Complaint Investigation Manual; DoE's Diversity and Inclusion Policy*; and, written materials about OEO, sexual harassment in the workplace, as well as policy and procedures for individuals with a disability.

20. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- During the period in review the principal EEO Professional reported to the Executive Deputy Counsel for Employment and General Practices – who is a direct report to the General Counsel. **Corrective action is required.**



**Corrective Action #10:** Ensure that the principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. Indicate the reporting relationship between the principal EEO Professional and agency head in the agency's organizational chart, EEO Policy and Annual EEO Plan.

21. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
- ✓ On December 21, 2016, the principal EEO Professional presented the agency's *2016 Annual Report* to the Chancellor (and other members of the Panel for Educational Policy). Additionally, the former Executive Director of the OEO, presented at meetings in which the Chancellor was in attendance on December 18, 2014, May 6, 2015, and December 16, 2015.
- Outcomes or decisions made as a result of the meetings/presentation(s) which impacted the administration and operation of the EEO program were not documented. **Corrective action is required.**

**Corrective Action #11:** Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

**VII. RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION – SUPERVISORS/MANAGERS:**  
**Determination: The agency is in partial compliance with the standards for this subject area.**

22. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.
- ✓ The agency established the EFC, a development and feedback process designed to engage Central, field and Superintendent based employees and their supervisors in goal setting, feedback, and development activities which will further employee's professional growth at the agency. The EFC is comprised of: goal-setting, mid-year check-in, year-end check-in, and on-going informal feedback discussions throughout the year.
- The agency did not demonstrate it administered annual performance evaluations for managerial and non-managerial employees. The EFC policy states "*the EFC cannot be used punitively or to determine raises or promotions.*" The EFC is not a performance evaluation program, and did not result in any kind of rating or formal evaluation. There was no tracking process to ensure completion. Each office/division set a timeline and process for implementation of EFC that works within their respective functional areas. **Corrective action is required.**

**Corrective Action #12:** Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

23. 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 agency did not demonstrate the managerial employees were rated on the abovementioned EEO responsibilities. **Corrective action is required.**

**Corrective Action #13:** Ensure that 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).

#### **VIII. REPORTING STANDARD FOR AGENCY HEAD:**

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

24. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports<sup>3</sup> (up to 30 days following each quarter) on efforts to implement the plan.

- ✓ In response to the EEPC's request the agency provided a copy of its *New York City Department of Education 2015-2016 Diversity and Inclusion Annual Report*.
- The agency did not submit to the EEPC its 2014-2015 Annual Report of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the plans. **Corrective action is required.**

**NOTE:** Subsequent to period in review, on May 30, 2017 the agency submitted a copy of its *2014-2015 Diversity and Inclusion Annual Report*. The agency should submit to the EEPC its Annual Plan of measures and programs to provide equal employment opportunity in henceforth.

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<sup>3</sup>Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.

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

1. The agency head distributes a memorandum informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

Final Action: Distribute a memorandum signed by the agency head informing employees of the changes implemented in the EEO program pursuant to the EEPC's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

**Conclusion**

The agency has 13 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,



Ilacia N. Zuell, Supervisory EEO Program Analyst

Approved by,



Charise L. Terry, PHR  
Executive Director

c: Laura Hemans Brantley, Executive Director, OEO, DoE  
Vicki Bernstein, Senior Executive Director, DHR, DoE

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

**RESOLUTION # 2017/212-740:** Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the New York City Department of Education's Employment Practices and Procedures from January 1, 2014 to December 31, 2016

**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 Department of Education's (DoE) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated June 22, 2017, setting forth findings and the following required corrective actions:

1. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, that includes, or attach as addend, an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
2. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
3. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
4. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which

diminish adverse impact

5. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. If women, minorities, or other protected groups are underrepresented in civil service (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
7. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
8. Use and maintain an applicant/candidate log or tracking system which, at minimum, in addition to the aforementioned information (Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code and Primary Phone) also captures ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) and recruitment source of each applicant. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
9. Ensure that all employees have access to information regarding job responsibilities and performance evaluation standards.
10. Ensure that the principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. Indicate the reporting relationship between the principal EEO Professional and agency head in the agency's organizational chart, EEO Policy and Annual EEO Plan.
11. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
12. Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
13. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).



**Whereas**, the agency did not submit a response to the EEPC's Preliminary Determination letter within 14 days from the date of its issuance and, consistent with the audit protocol referenced therein, the Preliminary Determination became Final; 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 July 10, 2017 which indicated that corrective actions nos. 1 through 7 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 August 2017 through January 2018, to determine whether it implemented 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

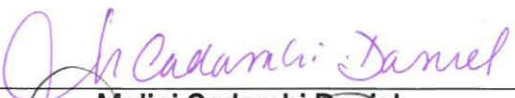
**Whereas**, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection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

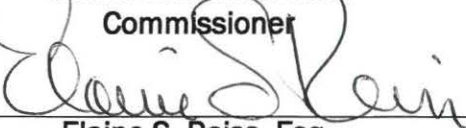
**Be It Resolved**, that the Commission approves issuance of this Final Determination to Chancellor Carmen Fariña of the New York City Department of Education.

Approved unanimously on August 17, 2017.

  
\_\_\_\_\_  
**Angela Cabrera**  
Commissioner

  
\_\_\_\_\_  
**Arva Rice**  
Commissioner

  
\_\_\_\_\_  
**Malini Cadambi Daniel**  
Commissioner

  
\_\_\_\_\_  
**Elaine S. Reiss, Esq.**  
Commissioner



**Department of  
Education**

*Carmen Fariña, Chancellor*

August 4, 2017

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

Re: Response to the Equal Employment Practices Commission's  
Final Audit Determination

Dear Executive Director Terry:

This correspondence is prepared in response to the Final Determination letter, dated July 10, 2017, pursuant to the Equal Employment Practices Commission's ("EEPC") audit of the New York City Department of Education's ("DOE") equal opportunity program from January 1, 2014 to December 31, 2016.

The EEPC's recommended corrective actions, as listed in the July 10, 2017 letter, are in bold, followed by the DOE's responses.

**Corrective Action #1: Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy*, that includes, or attach as addend, an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.**

DOE Response: The DOE will revise Chancellor's Regulation A-830 to include an up-to-date list of protected classes under NYC and NYS Human Rights Laws. The contact information for the agency's EEO professionals, as well as, federal, state and local agencies that enforce laws against discrimination is current.

**Corrective Action #2: Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.**

DOE Response: The DOE currently utilizes external recruitment and outreach sources to reach a broad audience, including, women, minorities, and other protected groups by advertising available positions on the following professional and community websites: Simplyhired.com, Indeed.com, Recruit.net,

Ladders.com, Glassdoor.com, Monster.com, LinkedIn Limited Listings, Apex Opus, Careerjet, Jobbydoo, WowJobs, and Direct Employers.

In addition, and in an effort to create and support a workplace environment that embodies and supports the diversity of our employees, students, parents, families and communities, the DOE has instituted an Employee Resources Group initiative. Employee Resource Groups ("ERGs") are voluntary, employee-led groups that form around a common set of interests and foster a diverse and inclusive workplace that is aligned with organizational mission, values, and goals. ERGs promote diversity and inclusion by facilitating networking, personal and professional development, and information sharing. At the NYCDOE, successful ERGs aim to develop employees professionally and facilitate information sharing in order to support employees in achieving both departmental and agency-wide objectives.

This work is guided by a partnership between the Division of Human Resources' Organizational Development Unit (ODU), and the Office of Equal Opportunity and Diversity Management's Diversity Management Unit (DMU) which are excited to support ERGs at the DOE Central Office.

Currently the NYC DOE has six (6) Employee Resource Groups (ERGs).

- ABLE – Admins Building to Lead Effectively
- The B.L.E.N.D. – Black and Latino Employee Networking and Development
- DOE Moms
- Mindfulness at Work
- NYC Schools Pride
- Women in Facilities Management

These ERGs are recognized as a resource to the organization and to our employees by allowing members to network, sponsor personal and professional development activities, address common issues, provide support for NYC DOE initiatives, and promote cultural awareness and understanding. A number of the groups have focused on providing professional development to help with the skill development of our employees so they are better positioned to compete for employment opportunities within and outside of the agency.

**Corrective Action #3:** Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e., workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine, what, if any, corrective actions are required in order to correct deficiencies (e.g., underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.

**DOE Response:** The DOE will analyze statistical information related to workforce hires, promotions, and separations by race/ethnicity and gender on an annual basis to identify whether there are barriers to equal opportunity within the agency and to determine if corrective actions are required to correct deficiencies. The DOE's Division of Human Resources and the Office of Equal Opportunity regularly meet to address issues pertaining to diversity, inclusion, and the professional growth of our employees. The meetings will continue to serve as opportunities for the DOE to cultivate and support a workplace environment that values diversity.

The DOE will participate in the Departure View initiative sponsored by the Department of Citywide Administrative Services (DCAS). The Department of Citywide Administrative Services is implementing a mandatory exit survey process for managerial employees to help better understand attrition in City Government. Departure View is the online exit survey service that DCAS is using which is conducted by CEB Corporate Leadership Council (CLC), a third party vendor. The data is collected by CLC, so all participants are guaranteed full confidentiality. Responses are completely anonymous and no personal information will be used to identify individuals.

DCAS recently released the results of the six month reporting period (10/1/16-3/31/17) in which people management, compensation, recognition, future career opportunity, and respect are the top five areas driving dissatisfaction amongst the voluntarily departing managerial population. Additionally, when compared against the previous six month and previous year reporting periods, these same contributors have consistently emerged as the top five drivers of voluntarily departing managerial dissatisfaction. These data will be used to support the DOE as it meets the needs of its workforce.

**Corrective Action #4:** Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

**DOE Response:** The DOE currently reviews job postings to ensure that criteria are job related. In addition, the DOE provides guidance to hiring managers via the DOE Staffing Guide as well as trainings for hiring managers and human resources directors. The DOE Staffing Guide is available on the NYC DOE's intranet site and is accessible by Human Resources Directors and hiring managers. The guide clearly outlines the steps to create and post job opportunities so ensure consistency in the process. Given the size of the organization, this is a critical resource Human Resource Directors and hiring managers turn to as they seek to staff their organizations.

**Corrective Action #5:** If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

**DOE Response:** The DOE currently utilizes external recruitment and outreach sources to reach a broad audience, including, women, minorities, and other protected groups by advertising available positions on professional and community websites as delineated in DOE Response #2.

**Corrective Action #6:** If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.

**DOE Response:** The majority of civil service titles at the DOE fall into what is known as the Competitive Class. This means that the City's Department of Citywide Administrative Services (DCAS) must construct and administer a test that results in a rank order civil service list. In turn, the DOE must hire either a candidate from the list provided by DCAS or an employee already possessing permanent status in the civil service title.

In addition, as part of its myDOE series, the DOE hosts a monthly welcome session where new employees have an opportunity to familiarize themselves with the NYCDOE's mission, history, structure and goals; obtain insight from DOE Senior Leadership on the key roles of the central office; and engage with a panel of leaders from across Central offices to learn tips on how to successfully navigate the DOE. A section of the agenda is dedicated to exposing new employees to civil service and opportunities to take civil service examinations.

**Corrective Action #7:** Ensure that human resources professional, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g., structured interview training or guide).

**DOE Response:** The DOE utilizes an online Staffing Guide for human resources professionals, managers, supervisors, and other personnel involved in the recruitment and hiring of staff. The Staffing Guide ensures there is guidance on the use of uniform, job-related techniques to identify, interview and select the most capable and qualified candidates.

**Corrective Action #8:** Use and maintain an applicant/candidate log or tracking system which, at minimum, in addition to the aforementioned information (*Position, Position ID, Enter Date, Name, Email Address Line, City, State, Country, Postal Code and Primary Phone*) also captures *ethnicity, gender, disability, or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) and recruitment source* of each applicant. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

**DOE Response:** The DOE's applicant tracking system is OpenHire. It is a system managed by an external vendor used for posting administrative and central positions to the DOE career page. In addition to being posted on the DOE's career page, twelve job sites receive a daily feed of the DOE's posted positions. The sites are: Simplyhired.com, Indeed.com, Recruit.net, Ladders.com, Glassdoor.com, Monster.com, LinkedIn Limited Listings, Apex Opus, Careerjet, Jobbydoo, WowJobs, and Direct Employers.

When applying for positions, candidates upload their resumes and self-report required identifying information (name, address, phone number, email, application source, internal/external DOE employee info) and voluntarily provide demographic data (gender, race/ethnicity). OpenHire collects and stores applicant data, however demographic information is not currently stored in any database that can be queried for reporting purposes. Application source data (i.e. asking the applicant "how did you hear about us?") is collected in a database that can be queried and reported on as an overall count within specific timeframes, by recruiter, and/or by position.

The DOE will consult with the vendor who currently manages the applicant tracking system utilized by the DOE to determine the feasibility of collecting and analyzing the noted data.

**Corrective Action #9:** Ensure that all employees have access to information regarding job responsibilities and performance evaluation standards.

DOE Response: Human Resource Directors and supervisors across the DOE work diligently to on board their new employees so they are clear in regards to job expectations.

Employees have access to their job descriptions. The DOE currently implements an Employee Feedback Cycle. The Employee Feedback Cycle (EFC) provides participating employees with opportunities to engage in goal setting, feedback, and development activities to further their professional growth. It helps foster productive conversations between employees and their supervisors. The expectation is that by linking individual and team goals to the DOE's overall priorities, it will help employees more clearly understand what's expected of them and how their work relates to the DOE's overarching mission. EFC is currently implemented on a voluntary basis.

Employees and supervisors engaged in EFC have a wealth of resources and materials they can access on the DOE's intranet site to support them. Resources support employees in setting goals and preparing for conversations with their supervisors. Supervisors are able to access resources to support them in making these conversations meaningful. Resources include detailed FAQs and worksheet templates for goal-setting, mid-year and end-of-year conversations.

The DOE is currently conducting a review of its Employee Feedback Cycle ("EFC") to determine how to best ensure all employees receive feedback on DOE-wide standard competencies and the employees' progress on operational and developmental goals.

**Corrective Action #10:** Ensure that the principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. Indicate the reporting relationship between the principal EEO Professional and agency head in the agency's organizational chart, EEO Policy and Annual EEO Plan.

DOE Response: The OEO Executive Director reports to the Senior Deputy Chancellor for School Support/Supervision and Equity/Access Programs, who is a direct report to the Chancellor, for matters involving non-pedagogical employees.

**Corrective Action #11:** Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

DOE Response: The DOE will document meetings and other communications between the EEO Professional and agency head (or a direct report to the Chancellor) regarding decisions that impact the administration and operation of the EEO program as it pertains to non-pedagogical employees.

**Corrective Action #12:** Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.



August 2, 2017

Page 6

DOE Response: The DOE is currently conducting a review of its EFC to ensure all employees receive feedback on DOE-wide standard competencies and the employee's progress on operational and developmental goals. For *civil service* titles, there are currently two standard evaluation forms in use.

**Corrective Action #13:** Ensure that 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).

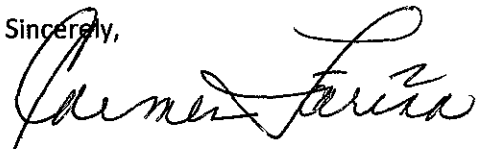
DOE Response: The EFC currently utilizes a standard competency with a strategy for managerial employee feedback that covers areas such as organizational leadership, team support and performance, collaboration and relationships, personal excellence and trust.

After implementation of the EEPC's corrective actions, I will send an electronic correspondence to all non-pedagogical employees, from my official DOE e-mail account, reinforcing the DOE's continued commitment to and support of EEO, diversity, and inclusion. The e-mail correspondence will also advise employees of changes implemented in the EEO program pursuant to the current EEPC Audit.

If any questions arise, please contact Laura Hemans Brantley, Executive Director of the Office of Equal Opportunity and Diversity Management, at (718) 935-2427.

We appreciate the EEPC's recommendations and remain committed to our robust equal employment opportunity program.

Sincerely,

A handwritten signature in black ink, appearing to read "Carmen Fariña", written in a cursive style.

Carmen Fariña  
Chancellor

Cc: Howard Friedman  
Laura Hemans Brantley

**From:** [Chancellor Carmen Fariña](#)  
**To:** [Chancellor Carmen Fariña](#)  
**Subject:** Annual Review of Equal Employment Practices, Policies, and Programs  
**Date:** Wednesday, January 31, 2018 2:24:33 PM

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Dear Colleagues,

Earlier this month, I shared the DOE's Diversity and Inclusion Policy, which describes our commitment to diversity and inclusion through our hiring, employee retention, and vendor procurement practices. As part of this commitment, the DOE is completing its annual review of our equal employment practices, policies, and programs.

The Office of Equal Opportunity & Diversity Management and the Division of Human Resources are partnering on this important work to strengthen HR practices, create a more inclusive environment across the DOE, and assess and expand our recruitment efforts to bring diverse talent into the organization.

The DOE completed the below updates:

- Revised [Chancellor's Regulation A-830](#) to add consumer credit history and caregiver status as protected categories, among other changes.<sup>[1]</sup>
- Provided hiring managers and HR professionals with [new recruitment and employee engagement tools](#), including a structured interviewing guide and onboarding toolkit.
- Recommitted to strengthening HR practices by supporting employees' professional development and providing them with additional resources, e.g., [employee resource groups](#).

Through these efforts and our ongoing work, the DOE remains committed to equity, diversity, and inclusion. Please email [AskOEO@schools.nyc.gov](mailto:AskOEO@schools.nyc.gov) or call (718) 935-4649 for further information on these updates.

Warmly,  
Carmen

[1] Currently pending approval from the Panel for Educational Policy. The Regulation will be posted and distributed to employees once it is approved.

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[\[1\]](#) Currently pending approval from the Panel for Educational Policy. The Regulation will be posted and distributed to employees once it is approved.

## EQUAL EMPLOYMENT PRACTICES COMMISSION CITY OF NEW YORK

**RESOLUTION #2017AP/221-740-(2018)C12:** Determination of **Compliance** (Monitoring Period Required) by the New York City Department of Education with the Equal Employment Practices Commission's required corrective actions pursuant to the Review, Evaluation and Monitoring of the Employment Practices and Procedures from January 1, 2014 to December 31, 2016.

**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 EEPD 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 and analysis of the New York City Department of Education's (DOE) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated June 22, 2017, setting forth findings and the following required corrective actions:

1. 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 EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.
2. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
3. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender), the annual number of EEO complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
4. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

5. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. If women, minorities, or other protected groups are underrepresented in civil service (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
7. Ensure that human resources professionals, managers, supervisors, and other personnel involved in recruiting and hiring are trained to consider EEO laws/policies and use uniform, job-related techniques to identify, interview and select the most capable candidates (e.g. structured interview training or guide).
8. Use and maintain an applicant/candidate log or tracking system which, captures *result, reason selected/not selected (or disposition)* for each applicant and *recruitment source*, in addition to the aforementioned criteria already captured. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
9. Ensure that all employees have access to information regarding job responsibilities and performance evaluation standards.
10. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
11. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
12. Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
13. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

**Whereas**, the DOE did not submit a response to the EEPC's Preliminary Determination letter within 14 days from the date of its issuance, and, consistent with the audit protocol referenced therein, the Preliminary Determination became Final; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC issued a Final Determination on July 10, 2017 which indicated that corrective action nos. 1 - 13 required compliance monitoring; and

**Whereas**, the DOE submitted its response to the EEPC's Final Determination letter, on August 4, 2017; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC

monitored the agency's implementation of the corrective actions from August 2017 – January 2018, with an informal extension of the monitoring period to June 1, 2018, to afford the agency the opportunity to complete implementation of corrective actions; and

**Whereas**, at the EEPC's request pursuant to Section 815.a.(15) of the New York City Charter, the DOE submitted a copy of the Chancellor's memorandum to staff dated May 16, 2018, which outlined the changes to its EEO program and practices and reiterated commitment to the agency's EEO Program, however, the memorandum did not refer to the EEPC audit; 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,

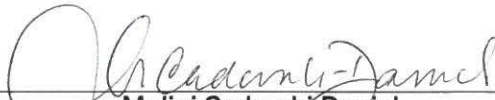
**Be It Resolved**, that the New York City Department of Education has implemented the required corrective actions deemed necessary to ensure compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the City Charter.


**Be It Resolved**, that the Commission approves issuance of this Determination of Compliance to Chancellor Richard A. Carranza of the New York Department of Education.

Approved unanimously on June 4, 2018.

  
\_\_\_\_\_  
Angela Cabrera  
Commissioner

  
\_\_\_\_\_  
Arva Rice  
Commissioner

  
\_\_\_\_\_  
Malini Cadambi Daniel  
Commissioner

  
\_\_\_\_\_  
Elaine S. Reiss, Esq.  
Commissioner





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

253 Broadway  
Suite 602  
New York, NY 10007

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

**BY MAIL AND EMAIL**

June 4, 2018

Richard A. Carranza  
Chancellor  
New York City Department of Education  
52 Chambers Street  
New York, NY, 10007

Re: Resolution #2017AP/221-740-(2018)C12: Determination of  
Agency Compliance

Dear Chancellor Carranza:

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

On behalf of this Commission, I want to thank you and principal EEO Professional Laura Hemans Brantley for the cooperation extended to the EEPC during the compliance-monitoring period.

Sincerely,

  
Angela Cabrera  
Commissioner

c: Laura Hemans Brantley, Principal EEO Professional, New York City  
Department of Education



This

# Determination of Compliance

is issued to

## NYC Department of Education

for successfully implementing 13 of 13 required corrective actions pursuant to the Equal Employment Practices Commission's  
Employment Practices and Procedures Audit From January 1, 2014 to this date.

On this 4<sup>th</sup> day of June in the year 2018,



Angela Cabrera, Commissioner



Charise L. Terry, PHR, Executive Director

In care of Chancellor Richard A. Carranza, and  
Principal EEO Professional Laura Hemans Brantley.