



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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February 2, 2008

Diane D'Alessandro
Executive Director
NYC Employees Retirement System
335 Adams Street
Brooklyn, NY 11201

Re: Final Determination Pursuant to the Audit of the New York City Employees Retirement System's (NYCERS) Equal Employment Opportunity Program from July 1, 2005 through June 30, 2007

Dear Ms. D'Alessandro:

We have reviewed your office's January 22, 2008 response (transmitted by EEO Officer Claudine Rasp) to our December 20, 2007 Letter of Preliminary Determination pursuant to the audit of the NYCERS' Equal Employment Opportunity Program from July 1, 2005 through June 30, 2007. Our Final Determination is as follows;

Agree

We agree with NYCERS' responses to the following EEPC recommendations, pending documentation that can be attached to your reply or provided during the compliance period:

Recommendation #1

The agency's EEO Policy should be revised to include all of the protected classes under the New York City and New York State Human Rights Laws. (Sect. IV, Citywide EEO Policy)

Recommendation #2

The revised EEO Policy should be distributed to all current and new employees, and posted on the agency's intranet.

Recommendation #4

The NYCERS should participate in the Section 55-A Program. At a minimum, the agency should obtain and distribute Program brochures issued by the DCAS to all current and new employees. (Sect. IIB, Citywide EEO Policy)

Recommendation #5

The EEO officer should formally be appointed the disabilities rights coordinator and employees should be notified in writing of that appointment. (Sect. VB, Citywide EEO Policy)

Recommendation #7

The EEO officer should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school, such as the EEO Studies Program of Cornell University's School of Industrial and Labor Relations. The EEO officer should obtain the certificate or otherwise complete the program at the institution selected by the NYCERS. (Sect. VB, Citywide EEO Policy)

Recommendation #8

The NYCERS should follow-up on its pledge and appoint a male EEO counselor, who will be authorized to receive and investigate discrimination complaints. (Sect. VB, Citywide EEO Policy)

Recommendation #9

The new male EEO counselor should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school. (Sect. VB, Citywide EEO Policy)

Recommendation #10

The EEO officer should meet with the new male EEO counselor at least at quarterly intervals to ensure that he is carrying out his EEO functions satisfactorily and is kept abreast of internal and external EEO developments. (Sect. VC, Citywide EEO Policy)

Recommendation #11

All internal discrimination complaint files should contain a NYCERS *Complaint of Discrimination* form. (Sect. IIA, NYCERS EEO Policy)

Recommendation #12

A person who has been named as a respondent in the *Complaint of Discrimination* form should receive a copy of the complaint and have the opportunity to respond in writing. Sensitive information, such as the complainant's home address and telephone number, can be redacted or kept on a separate complaint sheet. (Sect. IIA, NYCERS EEO Policy)

Recommendation #13

The parties to the complaint should be notified in writing of the outcome of the investigation. (Sect. 12b, *Discrimination Complaint Procedures Implementation Guidelines*, DCAS, 1993)

Recommendation #14

The agency head should sign each EEO investigator's report containing findings and recommendations. (Sect. 12b, *Discrimination Complaint Procedures Implementation Guidelines*, DCAS, 1993)

Recommendation #15

It is the Commission's position that all appropriate internal discrimination complaint files should contain notice that the recommended corrective actions were implemented.

Recommendation #17

It is the Commission's position that appropriate documentation of meetings and other communications regarding EEO program operations decisions should be maintained.

Recommendation #18

The agency head should direct the human resources department to include the EEO officer in the development of recruitment strategies and selection of recruitment media. (Sect. IV, Citywide EEO Policy)

Note: Although the EEO officer told EEPC auditors during the 2007 audit overview meeting that the previous EEO officer was *not* involved in developing recruitment strategies or selecting recruitment media, the NYCERS' response indicates that the agency did, in fact, follow this recommendation.

Requires Clarification

For the following reasons, hereafter identified as EEPC Rationale, we request clarification of your responses to the following recommendations, which can be addressed in your response or during the compliance period;

Recommendation #3

The Citywide EEO Policy Handbook (with addendums) should be distributed to all current and new employees. (Sect. VB, Citywide EEO Policy)

Your Response

The Citywide EEO Policy Handbook (with addendums) has been reproduced and NYCERS' Directors have distributed them to each employee within their division.

EEPC Rationale

It is unclear from your response if *new*—in addition to current—employees will also receive the EEO Policy Handbook.

Recommendation #16

The NYCERS should ensure that all employees involved in job interviewing receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IC, Citywide EEO Policy)

Your Response

Felita Ramsami, NYCERS Director of Human Resources, trains all interviewing supervisors and managers on structured interview training. This training is conducted every summer for all interviewing supervisors and managers.

EEPC Rationale

During the 2007 audit overview meeting, the EEO officer told the EEPC auditors that she did not know if the NYCERS provided structured interview training to personnel involved in the recruitment and hiring process. It is unclear from the agency's response if this training began before, during or after the audit period, and whether all interviewing supervisors and managers have, indeed, received the training.

Disagree

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

Recommendation #6

The agency should follow Section VB of the Citywide EEO Policy and ensure that its EEO Policy is available in "appropriate alternate formats to employees with disabilities" (e.g., audio cassette or Braille).

Your Response

NYCERS has never been asked for the EEO Policy in an alternative format but will provide if requested.

EEPC Rationale

The EEPC recommendation requires that the NYCERS make its EEO Policy currently available in an alternative format for people with disabilities (such as on audio cassette or in Braille); not wait until a request for such an accommodation is made by an applicant or employee.

Recommendation #19

The NYCERS should develop a plan, which includes a timetable, to provide EEO training to all employees who have not received it. (Sect. IV, Citywide EEO Policy)

Your Response

NYCERS EEO Officer trains all new employees on NYCERS EEO policy through its New Employees Orientation training.

EEPC Rationale

The Commission does not dispute that new employees receive EEO training during employee orientation sessions. This EEPC recommendation is based on audit survey results, in which a majority of survey respondents (57%)—current employees—indicated they had not received EEO training. The NYCERS should therefore check its records, identify employees who have not received such training, and develop a plan to provide EEO training to those individuals.

Special Contingency

Both audits of the NYCERS EEO Program (conducted in 2003 and 2007) revealed a high turnover rate in the EEO officer title. For the period of January 1, 2000 through June 30, 2002, the NYCERS had three EEO officers. For the period of July 1, 2005 through June 30, 2007, the NYCERS had four EEO officers. (Most of those EEO officers were employed as assistant general

counsels.) This high turnover of EEO personnel is responsible, in large part, for the relatively high number of audit recommendations.

Continuity of EEO professionals is critical to the success of an EEO program. To that end, Commission staff recommended at the December 19th audit exit meeting that the NYCERS consider appointing two co-EEO officers instead of one EEO Officer. This configuration will allow continuity of the EEO Program if one co-EEO officer resigns. Although you said you would consider this recommendation during the audit exit meeting, it was not addressed in your response letter. We intend to address this recommendation during the compliance period.

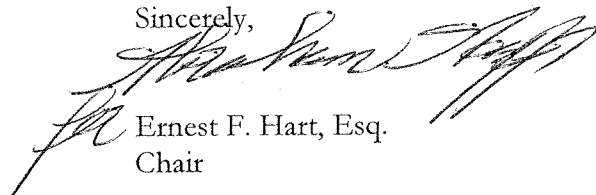
Conclusion

Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance.

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPC Counsel Judith Garcia Quinoñez or her designee will contact your EEO officer in seven days to ascertain your intentions.

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

Sincerely,



Ernest F. Hart, Esq.
Chair

c: Claudine Rasp, Esq., EEO Officer