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BY MAIL AND EMAIL

September 4, 2018

Eric Adams
Borough President
Office of the Brooklyn Borough President
209 Joralemon Street
Brooklyn, NY 11201

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

Dear Borough President Adams:

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

Chapter 36, Section 831(d)(5) of the New York City Charter empowers this Commission to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for women and minority employees and applicants seeking employment. Sections 831(d)(2) and 832(c) authorize this Commission to make a determination that any agency's plan, program, procedure, approach, measure or standard does not provide equal employment opportunity, require appropriate corrective action and monitor the implementation of the corrective action it prescribes.

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



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

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

Scope and Methodology

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

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a three-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

Description of the Agency

"The Borough Presidents are the executive officials of each borough. The City Charter gives them authority to: work with the Mayor in preparing the annual executive budget submitted to the City Council and to propose borough budget priorities directly to the council; review and comment on major land use decisions and propose sites for city facilities within their respective boroughs; monitor and modify the delivery of city services within their boroughs; and engage in strategic

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

planning for their boroughs. The Borough Presidents appoint members to Community Boards who serve without compensation, and each chairs a Borough Board. Each Borough President maintains a topographical bureau.”² The CEEDS Report: Work Force Composition Summary for the Office of the Brooklyn Borough President, attached as Appendix 1, indicates that at the end of the period in review the agency’s headcount was 68.

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 non-compliance with the standards for this subject area.

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- ✓ On June 3, 2016, the principal Human Resources Professional (*Chief Administrative Officer* and *Deputy EEO Officer*) emailed employees a copy of the agency head’s 2016 EEO Policy Statement. The EEO Policy Statement reiterated commitment to EEO stating, “[a]s Borough President, I reaffirm this Agency’s strong commitment to maintain fair employment practices for all employees and job applicants. The implementation of the enclosed Policy in preventing discrimination is one of my highest priorities and has my full support.”
 - The agency’s EEO Policy Statement was not issued annually and did not state commitment to the prevention of sexual harassment. Corrective Action Required.

Corrective Action 1: Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
- ✓ On June 3, 2016, the principal Human Resources Professional (*Chief Administrative Officer* and *Deputy EEO Officer*) emailed all employees a copy of the *Office of the Brooklyn Borough President Equal Employment Opportunity Policy* (EEO Policy), attached as Appendix 2. The EEO Policy conformed to state and federal laws against sexual harassment and included

² “Borough President – Brooklyn.” *Green Book Online*, City of New York, 2015, <http://a856-gbol.nyc.gov/GBOLWebsite/GreenBook/Details?orgId=2854>

procedures for investigating discrimination/sexual harassment complaints, a definition of sexual harassment, and the names and telephone numbers of the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment. The EEO Policy directed employees, via electronic link, to the City of New York's *EEO Complaint Procedural Guidelines, City of New York* (EEO Complaint Procedural Guidelines), attached as Appendix 3, as an additional source of procedural information. In addition, Section A.1 of the EEO Policy stated, "[e]veryone who works or seeks employment within the BP's Office is covered by federal, state, and local employment laws, and this Policy." The agency reported its EEO Policy was included in the package provided to all new hires.

- The agency's EEO Policy did not include caregiver status and consumer credit history in its list of classes protected against employment discrimination. Corrective Action Required.

NOTE: The address listed for the New York City Commission on Human Rights in the agency's EEO Policy is inaccurate. The agency's draft 2017/2018 EEO Policy identified caregiver status and consumer credit history in its list of classes protected against employment discrimination.

Corrective Action 2: Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

II. EEO TRAINING FOR AGENCY:

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

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
- ✓ The agency's training records indicated that 65 employees (approximately 96% of the workforce³) completed the Department of Citywide Administrative Services (DCAS) Citywide Training Center's (CTC) computer-based EEO training in 2017. The computer-based EEO training included the definition of sexual harassment, prevention of sexual harassment and discrimination complaint and investigation procedures.

NOTE: The agency should establish a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive

³ Based on workforce headcount at the end of the period in review, December 31, 2017, attached as Appendix 1.

training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

III. COMPLAINT & INVESTIGATION PROCEDURES

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

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

4. Include in the complaint file a completed *Complaint Intake Form*, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
- ✓ The agency's *Complaint of Discrimination* intake form, attached to the EEO Policy, captured "...the alleged basis of discrimination ...the name, title and division of the person(s) you believe discriminated against you ...[when] the alleged discrimination occurred," and "[w]here did it happen." The complaint form also asked the complainant to "[d]escribe the incident that you believe constitutes unlawful discrimination. Please use extra pages if necessary."
5. Provide the option to file a complaint anonymously.
- ✓ The option to file a complaint anonymously was provided to employees via Section C.3.a of the EEO Policy that stated, "[p]ersons who wish to discuss a problem concerning discrimination without revealing their identity may do so by telephone or in writing to the EEO Officer. In such cases the EEO Officer will provide counseling and take such follow-up action as may be appropriate and possible given the restraints of anonymity. Anonymous complainants should be aware that it might be necessary for the EEO Officer to investigate the alleged discriminatory behavior and to take or recommend action to remedy unlawful behavior on behalf of the Agency, even if the anonymous complainant wishes to withdraw his/her complaint."
6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.
- ✓ The rights of respondents in complaint investigations were discussed in Section C.3 of the EEO Policy that stated, "[a]ny person who is interviewed in the course of an investigation shall have the right to be accompanied by a representative of his/her choice. A person who has been named as the respondent in the discrimination complaint shall receive a copy of the complaint and shall have the opportunity to respond in writing."

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
 - ✓ The EEO Policy discussed maintaining written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office, in Sections C.3.c and C.6. Section C.3.c of the EEO Policy stated, “[i]f the parties agree to a resolution of the situation and any action needed to resolve the matter has received all necessary approvals, the EEO Officer shall prepare a written report confirming the resolution. The report shall be signed by all parties, and copies shall be given to all parties. A request for mediation may be withdrawn at any time by the person who initiated it. If this occurs, the EEO Officer shall, in writing, inform all parties involved that the request was withdrawn. Mediation may also be terminated by any party to the mediation. If this occurs, the EEO Officer shall, in writing, inform the other party or parties that the mediation has been terminated.” Section C.6 of the EEO Policy reiterated that “[a] complaint of discrimination may be withdrawn at any time by the person who filed the complaint unless it is anonymous. Withdrawal of a complaint must be made or confirmed in writing.”
8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
 - ✓ Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines as an additional source of procedural information. Section E of the EEO Complaint Procedural Guidelines directed investigators to, “...take thorough notes, as close to verbatim as possible ... [during interviews to] reflect the content of the interview, both the questions and answers, as completely as possible... All complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office.”
9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
 - ✓ Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines as an additional source of procedural information. Section C of the EEO Complaint Procedural Guidelines stated, “[b]egin investigation immediately after determining that the allegations raised, if true, are sufficient to establish a case of discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint. Complete an investigation within 90 calendar days of the filing of the complaint.” In addition, Section F of the EEO Complaint Procedural Guidelines asserted that, “[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system.”
10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the

reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

- ✓ Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines as an additional source of procedural information. Section F of the EEO Complaint Procedural Guidelines directed investigators that a conclusive *“...final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report.”*

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head’s Review.

- ✓ Section C.4 of the EEO Policy stated, *“[i]f the EEO Officer concludes on the basis of the investigation that a violation of anti-discrimination laws or this Policy has occurred, the EEO Officer shall recommend appropriate corrective action to the Borough President in a confidential written report.”*

Section D.9 of the EEO Policy also directed employees, via electronic link, to the EEO Complaint Procedural Guidelines which elaborated, in Section F, that, *“[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office... The written [final investigative] report should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation. The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified.”*

12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

- ✓ The agency reported EEO files were stored securely in the Human Resources Unit in a locked office and credenza. Section D.9 of the EEO Policy also directed employees to the EEO Complaint Procedural Guidelines, which stated, *“[c]omplaints and complaint investigations should be accorded the strictest confidentiality possible. All complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office.”*

13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
 - ✓ Section C.4 of the EEO Policy stated, “[t]he Borough President will review the EEO Officer's report and take any corrective action that [sic] deemed appropriate.” Furthermore, Section F of the EEO Complaint Procedural Guidelines stated that investigators were to prepare a written “...final investigative report...[which] should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation. The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified.”
14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the complaint investigation procedure.
 - ✓ Section C.4 of the EEO Policy stated, “[t]he EEO officer will advise all parties in writing of the outcome of the complaint.”
15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines, which stated in Section F that “[t]he Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified... [and] the EEO Office should inform all parties in writing of the outcome of the investigation.”
16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.
 - ✓ Section C.5 of the EEO Policy discussed external complaints and stated, “[t]he EEO Officer will notify the complainant and the parties who are the subject of the complaint, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint.”
17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

- ✓ The agency's paper complaint tracking and monitoring system was capable of capturing the following information: *Complainant, Respondent, Unit, Status, Date Filed, and Date [resolved]*.

NOTE: The agency's complaint tracking and monitoring system should be updated to also capture *location, the issues and the bases of the complaints*.

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
- ✓ The agency does not have a General Counsel. The principal EEO Professional (also the *Executive Agency Counsel* and *Special Counsel to the Borough President*) and principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) were responsible for identifying and determining appropriate responses to sexual harassment complaints, the implementation of the agency's policies regarding sexual harassment and the investigation of and response to internal and external sexual harassment complaints. The *Executive Agency Counsel* job description outlined that the position serves as the legal adviser to the agency head, drafter of the agency's important policy statements, and the agency representative in complex legal cases.

IV. ANNUAL REVIEW OF PRACTICES, POLICIES AND PROGRAMS

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

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
- ✓ The agency's *Executive Agency Counsel* and *Special Counsel to the Borough President* was the principal EEO Professional. The agency reported that the principal EEO Professional and principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) reviewed the agency's employment practices, policies and programs on an annual basis to identify what, if any, actions were required to correct deficiencies. (There were no complaints during the period in review.)

The agency reported that the *Deputy EEO Officer* annually compiled documentation for use when the principal EEO Professional annually reviewed and updated the EEO Policy. The differences between the agency's June 2016 EEO Policy and its draft 2017/2018 EEO Policy demonstrated the agency's identification and correction of deficiencies in its EEO Policy.

Specifically, the agency's EEO Policy draft changes included listing *caregiver status* and *consumer credit history* as classes protected against employment discrimination. The agency's EEO Policy changes also included the addition of a subsection titled "Sex, Gender, and Sexual Orientation" to sections "Specific Protections" and "Requests for Reasonable Accommodations."

V. RESPONSIBILITY FOR IMPLEMENTATION - EEO PROFESSIONALS

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

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state and federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
- ✓ The principal EEO Professional (also the *Executive Agency Counsel* and *Special Counsel to the Borough President*) was appointed in 2014. The principal EEO Professional completed the Practicing Law Institute course *Diversity & Inclusion in Law Practice 2013* in February 2013, the DCAS CTC training *Religion in the Workplace* (May 2014), and a five day *Diversity and EEO Basic Training* for EEO professionals (June 2014). The five day *Diversity and EEO Basic Training* covered EEO obligations under city, state and federal EEO laws and the agency's EEO policies, standards and procedures; as well as the prevention, investigation, and resolution of discrimination complaints.
21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.
- ✓ The agency reported that it ensured that the responsibilities of the principal EEO Professional were competently discharged by providing dedicated EEO-related support staff, specifically a *Deputy EEO Officer* and two *EEO Counselors* (see §V.22). Employees were directed by the EEO Policy Statement to contact any member of the EEO Office "...to file an internal EEO complaint in writing or orally or [to] receive assistance with an EEO matter." All members of the EEO Office were available to assist in completing reasonable accommodation requests or in the filing of discrimination complaints. Only the principal EEO Professional and Deputy EEO Officer conducted EEO complaint investigations.
 - The agency did not demonstrate that during the period in review, the principal EEO Professional had access to continuing education and professional development training.
Corrective Action Required.

Corrective Action 3: Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing continuing education and professional development.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

- ✓ At the end of the period in review, the *Citywide Equal Employment Database System* reported 68 employees and the agency reported 15 divisions at a single location. The agency's organization charts indicated that the EEO Office consisted of the principal EEO Professional, a *Deputy EEO Officer*, and two part-time *EEO Counselors* (who collectively were members of the following divisions at the agency: Office of the Special Counsel, HR/Administration and Land Use).

All EEO professionals completed DCAS' five-day *Diversity and EEO Basic Training* for EEO professionals (see §V.20 for training topics). The *Deputy EEO Officer* also completed DCAS CTC's *Religion in the Workplace* (May 2014).

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

- ✓ The agency's *Executive Agency Counsel* and *Special Counsel to the Borough President* was the principal EEO Professional. The principal EEO Professional and Principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) demonstrated their collaboration in the implementation of the agency's policies regarding sexual harassment via their review and update of the EEO Policy, (see §IV.19) and the Principal Human Resources Professional's email distribution of the EEO Policy (see §I.2).

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

- ✓ The principal EEO Professional and principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) ensured that all employees completed sexual harassment prevention training by way of DCAS CTC's computer-based EEO training, and were responsible for ensuring that the EEO policies could be viewed in large print, electronically and could be provided in audio format upon request. In addition, the EEO Policy and EEO Compliant Investigation Procedures established that the principal EEO Professional was responsible for ensuring that managers, supervisors and human resource professionals received guidance on issues pertaining to sexual harassment; and that allegations of sexual harassment were promptly investigated. Section C.1 of the EEO Policy informed all employees,

including managers and supervisors, that “[a]nyone who believes that s/he has been subjected to any action, decision, or harassment in violation of this Policy, or who witnesses others being subjected to improper conduct, is urged to promptly report the incident(s) to his/her manager or supervisor or consult with the EEO officer orally or in writing. Managers and supervisors who receive EEO complaints must notify the EEO Officer. Managers and supervisors should also encourage individuals who believe that this policy has been violated to consult with an EEO Officer.” Section C.1 further stated that “[t]he EEO Officer will assist the employee ... to determine whether the issue s/he has raised is appropriate for resolution through the complaint process.” Section C of the EEO Complaint Procedural Guidelines discussed the prompt investigation of EEO complaints (which includes allegations of sexual harassment) by stating, “[b]egin investigation immediately after determining that the allegations raised, if true, are sufficient to establish a case of discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint. Complete an investigation within 90 calendar days of the filing of the complaint.”

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ The agency’s organization chart illustrated that the principal EEO Professional directly reported to the agency head for EEO matters.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

➤ The agency did not maintain documentation of the directives or decisions between the agency head and the principal EEO Professional. Corrective Action Required.

Corrective Action 4: Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

VI. RESPONSIBILITY FOR IMPLEMENTATION – MANAGERS

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

27. Ensure that managers and supervisors are held accountable for enforcing the agency’s sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

✓ The EEO Policy Statement, EEO Policy, EEO Complaint Procedural Guidelines and computer-based EEO trainings communicated the expectation that managers and supervisors were

accountable for enforcing the sexual harassment prevention policies and complaint procedures. The EEO Policy Statement directed managers and supervisors to “...make all employment decisions in accordance with this Policy and to ensure compliance in their areas of responsibility,” and stated, “[m]anagers and supervisors who receive EEO complaints must notify the EEO Officer. Managers and supervisors should also encourage individuals who believe that this policy has been violated to consult with an EEO Officer.” The aforementioned responsibility to contact the EEO Officer was also reiterated in the EEO Complaint Procedural Guidelines and EEO training.

In addition, the agency responded affirmatively to the EEPC’s preliminary interview question that managers and supervisors were directed to cooperate with an EEO professional in the implementation of EEO and sexual harassment prevention policies and procedures (including training, complaint resolutions, accommodations); consult with an EEO professional if sexual harassment is observed, communicated or suspected; encourage subordinates to consult with an EEO professional if sexual harassment is observed, communicated or suspected; allow employees to meet with an EEO professional at the earliest mutually convenient time; maintain privacy with regard to sexual harassment issues; perform responsibilities in a non-discriminatory manner; and maintain a work environment that fosters sensitivity and respect for diversity.

28. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The agency’s managerial performance evaluation form did not contain a rating for EEO to ensure that managers and supervisors were held accountable for implementing and enforcing the agency’s EEO-related expectations, directives and policies. Corrective Action Required.

Corrective Action 5: Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VII. REPORTING STANDARD FOR AGENCY HEAD:

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

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports⁴ on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

⁴ Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.

- The agency did not provide copies of its Annual Plan of measures and programs to provide equal employment opportunity. Corrective Action Required.

Corrective Action 6: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

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

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

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

Conclusion

The agency has 6 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 blue ink that reads "William B. Peterson". The signature is written in a cursive style and is positioned above a horizontal line.

William B. Peterson, EEO, Employment and Labor Relations Analyst

Approved by,

A handwritten signature in blue ink that reads "Charise L. Terry". The signature is written in a cursive style and is positioned above a horizontal line. To the left of the signature, there is a small, stylized blue mark that appears to be a set of initials or a logo.

Charise L. Terry, PHR
Executive Director

c: Ama Dwimoh, Principal EEO Professional

Appendix - 1

Office of the Brooklyn Borough President
CEEDS Report: *Work Force Composition Summary*
2nd Quarter of Fiscal Year 2018
(End of Audit Period)

RUN DATE: 01/03/18
 RUN TIME: 14:40:13.7

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
 WORK FORCE COMPOSITION SUMMARY
 QUARTER 2 YEAR 2018 AGENCY 012 BOROUGH PRESIDENT-BROOKLYN

PAGE: 18
 REPORT: EBEP210

EEO JOB GROUP TOTAL.....: 1 0 0 0 0 0 0 0 0 0 0 0 0 0 1
 100.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 0.00 100.00

AGENCY CODE : 012 BOROUGH PRESIDENT-BROOKLYN
 EEO JOB GROUP : 009 PUBLIC RELATIONS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN		
60621	PROGRAM PRODUCER	1	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		1	0	0	0	0	0	0	0	0	0	0	0	0	1

AGENCY CODE : 012 BOROUGH PRESIDENT-BROOKLYN
 EEO JOB GROUP : 012 CLERICAL SUPERVISORS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN		
10124	PRINCIPAL ADMINISTRATIVE A	0	0	0	0	0	0	1	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		0	0	0	0	0	0	1	0	0	0	0	0	0	1

AGENCY CODE : 012 BOROUGH PRESIDENT-BROOKLYN
 EEO JOB GROUP : 013 CLERICAL

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN		
10251	CLERICAL ASSOCIATE	0	0	0	0	0	0	0	1	1	0	0	0	0	2
EEO JOB GROUP TOTAL.....:		0	0	0	0	0	0	0	1	1	0	0	0	0	2

AGENCY CODE : 012 BOROUGH PRESIDENT-BROOKLYN
 EEO JOB GROUP : 027 TRANSPORTATION

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN-KNOWN		
05168	CHAUFFEUR-ATTENDANT (PB)	1	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		1	0	0	0	0	0	0	0	0	0	0	0	0	1

AGENCY CODE : 012 BOROUGH PRESIDENT-BROOKLYN
 EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

RUN DATE: 01/03/18
 RUN TIME: 14:40:13.7

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
 WORK FORCE COMPOSITION SUMMARY
 AGENCY 012 BOROUGH PRESIDENT-BROOKLYN

PAGE: 19
 REPORT: EBEP210

QUARTER 2 YEAR 2018

TITLE CODE	TITLE DESCRIPTION	MALE					FEMALE					OTHER	TOTAL EMP		
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS			AM IND ALASK	UN- KNOWN
52406	COMMUNITY SERVICE AIDE	0	1	0	0	0	0	1	0	0	0	0	0	0	2
56057	COMMUNITY ASSOCIATE	1	4	1	0	0	0	0	4	1	0	0	0	0	11
56058	COMMUNITY COORDINATOR	3	3	0	0	0	1	5	3	1	1	0	1	0	18
EEO JOB GROUP TOTAL.....:		4	8	1	0	0	1	6	7	2	1	0	1	0	31
		12.89	25.81	3.23	0.00	0.00	3.23	19.35	22.58	6.45	3.23	0.00	3.23	0.00	100.00
AGENCY TOTAL.....:		15	11	2	0	0	2	9	18	9	1	0	1	0	68
		22.05	16.18	2.94	0.00	0.00	2.94	13.24	26.47	13.24	1.47	0.00	1.47	0.00	100.00

Appendix - 2

Office of the Brooklyn Borough President
*Office of the Brooklyn Borough President Equal Employment
Opportunity Policy*
June 2, 2016



CITY OF NEW YORK



BROOKLYN BOROUGH PRESIDENT

ERIC L. ADAMS

EQUAL EMPLOYMENT OPPORTUNITY POLICY

CONTACT INFORMATION:

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(718) 802-3894**

**Melody Ruiz, BP's Office Deputy EEO Officer
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**Richard Bearak, BP's Office EEO Counselor
(718) 802-4057**

**OFFICE OF THE BROOKLYN BOROUGH PRESIDENT
EQUAL EMPLOYMENT OPPORTUNITY POLICY**

TABLE OF CONTENTS

A.	EQUAL EMPLOYMENT OPPORTUNITY POLICIES	1
1	Applicability	1
2	Types of Prohibited Conduct.....	2
B.	SPECIFIC PROTECTIONS	2
1.	Hostile Work Environment.....	2
2.	Workplace Harassment.....	3
a.	Sexual Harassment.....	3
b.	Prevention of Harassment	3
3.	Disabilities	4
a.	55-a Program.....	4
4.	Religion.....	4
5.	Domestic Violence, Sexual Offenses, or Stalking.....	4
6.	Anti-Retaliation Policy	5
C.	PROCEDURES	5
1.	Reporting Violations.....	5
2.	Filing an Internal Complaint or Seeking Assistance	6
3.	Meeting with the EEO Officer.....	6
a.	Anonymous Complaints.....	6
b.	Confidentiality.....	7
c.	Mediation	7
4.	Investigation of Complaints.....	7
5.	Other Places Where Complaints may be Filed.....	8
6.	Withdrawing Complaints.....	9
D.	REQUESTS FOR REASONABLE ACCOMMODATIONS.....	9
1.	Introduction.....	9
2.	Steps for Making a Request for Reasonable Accommodations	9
3.	Specific Aspects of Certain Types of Requests.....	10
a.	Disabilities.....	10
b.	Victims of Domestic Violence, Sex Offenses, or Stalking.....	10
c.	Pregnancy	11
d.	Religion.....	11
4.	Effective Communication and Other Assistance`	11
5.	Confidentiality	11
6.	Appeals to the Agency Head	12
7.	Discrimination	12
8.	Further Guidance	12
9.	Additional Sources of Procedural Information.....	12

TABLE OF CONTENTS

E.	DIVERSITY	13
	1. Minimum Standards.....	13
	2. Agency Head	13
F.	KEY TERMS	14

A. Equal Employment Opportunity Policy

The BP's Office is an equal opportunity employer committed to compliance with federal, state, and city laws prohibiting discrimination based on your actual or perceived membership in a protected group. Employment decisions at the BP's Office will be made on the basis of merit, fitness and quality of opportunity and without unlawful discrimination on the basis of: actual or perceived race; color; national origin; alienage or citizenship status; religion or creed; gender (including "gender identity" – which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth); disability; age (18 and over); military status; prior record of arrest or conviction;¹ marital status; partnership status;² genetic information or predisposing genetic characteristic;³ sexual orientation; status as a victim or witness of domestic violence, sex offenses or stalking;⁴ and unemployment status.⁵

1. Applicability

Everyone who works or seeks employment within the BP's Office is covered by federal, state, and local employment laws, and this Policy. This includes all current employees, paid and unpaid interns,⁶ and job applicants.

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

Where discrimination is suspected, employees are encouraged to use the Agency's complaint and investigation procedures. Any person found to be engaging in discriminatory conduct or practices may be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, and any other measures that may eliminate illegal or inappropriate behavior. Additionally, the BP's Office shall take steps to address the impact that any unlawful discrimination has had on the complainant. The Agency may discipline conduct that violates this Policy even if the conduct does not violate a law prohibiting discrimination.

¹ Some employment actions motivated by the reasons listed are permitted by law, such as where an employer may deny employment on the basis of an applicant's prior record of conviction, if there is a direct relationship between one or more of the applicant's criminal offenses and the specific employment sought, or where employing the applicant poses an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. (*See* Correction Law, Art. 23-A, Section 752.)

² "Partnership status" was added as a protected class under NYC's Human Rights Law on October 3, 2005.

³ The term "predisposing genetic characteristic" was adopted on August 30, 2005 to streamline the terms "genetic predisposition" and "carrier status" in the previous version of the New York State Human Rights Law

⁴ "Status as victim of sex offenses or stalking" was added as a protected class under the City Human Rights Law on December 22, 2003.

⁵ "Unemployment status" was added as a protected class under NYC's Human Rights Law on June 11, 2013.

⁶ "The prohibition of discrimination" against interns was added in the New York City's Human Rights Law on April 15, 2014

Any employee or applicant who believes that s/he has been discriminated against should contact the EEO Officer for consultation and/or to file a complaint. All complaints will be handled confidentially.

2. Types of Prohibited Conduct

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

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

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

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

Some offensive acts or remarks may violate this Policy even if they are not so severe that they violate federal, state, or local discrimination laws.

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

B. Specific Protections

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

1. Hostile Work Environment

Anyone in the workplace can commit this type of harassment: a supervisor or manager; co-worker; or even a non-employee. Factors of a hostile work environment include: whether the conduct was verbal or physical or both; how frequently it was repeated; whether conduct was hostile, intimidating, abusive or offensive; whether the alleged harasser was a coworker or a manager or supervisor; whether others join in perpetrating the harassment; or whether the harassment was directed at more than one person.

2. Workplace Harassment

Harassment is any unwelcome verbal or physical conduct based actual or perceived membership in a protected group, or participation in protected EEO activity that is sufficiently offensive to alter the conditions of the victim's employment.

This standard is met when conduct: unreasonably interferes with an employee's job performance; creates an intimidating, hostile, abusive, or offensive working environment; or creates an abusive working environment based on any protected characteristic.

An example of misconduct is: a female complains about the vulgar language and jokes that routinely fill the break-room, her male co-workers tell her to, "lighten up and get used to it, because that's how the boys behave."

a. Sexual Harassment

Sexual harassment is a form of employment discrimination which is prohibited by law. The federal government created guidelines which define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."⁷

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

b. Prevention of Harassment

All employees and job applicants are encouraged to avoid initiating or participating in any behavior that may be misconstrued as possible harassment, including the following types of behavior:

- Verbal (unwelcome comments, yelling, offensive jokes or stories)
- Visual (offensive pictures, photos, cartoons, posters, calendars, magazines or objects)
- Physical (unwelcome touching, hugging, kissing, stroking, ogling or suggestive gestures)
- Written (unwelcome letters, notes or emails of a personal nature).

Additionally, employees are encouraged to:

- Avoid sexual, racial, ethnic, cultural, age/disability related jokes, epithets, comments, and emails
- Respect a person's wishes when s/he indicates that conduct or attention is not welcome
- Clearly inform those engaging in offensive behavior that you find it objectionable
- Report behavior that you believe qualifies as harassment

⁷ Code of Federal Regulations, Title 29, Section 1604.11.

3. Disabilities

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

One example of a record of such impairment is a history of cancer that is currently in remission. An example of a relationship with a person having a disability includes not only having a family member with a disability, but also having a cooperative or supportive relationship at work (such as assisting a colleague with a disability).

In addition to taking aggressive actions against discrimination towards persons with disabilities, the BP's Office will take appropriate action to encourage employment of, and promotional opportunities for, qualified applicants and employees with disabilities.

Anyone believing s/he has been discriminated against on the basis of disability should contact the EEO Officer for a consultation.

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

a. 55-a Program

Section 55-a of the New York State Civil Service Law permits the Agency to convert civil service lines to non-competitive civil service positions for people who can perform the job in question as needed by the Agency, but who are certified as having a disability.

4. Religion

This Policy prohibits adverse employment actions based on a person's religion. This includes discriminatory practices and decisions, harassment, hostility, or other adverse actions because of a person's actual or perceived creed, religious affiliation, religious beliefs, observances, or practices. Additionally, depending on the circumstances, the BP's Office will try to reasonably accommodate the religious observances, beliefs, or practices of an employee or applicant, unless the accommodation creates an undue hardship.

5. Domestic Violence, Sex Offenses, or Stalking

The New York City Human Rights Law prohibits employment discrimination against persons who are victims of domestic violence, or victims of sex offenses or stalking, as defined by that law and the New York State Penal Law.

6. Anti-Retaliation Policy

It is unlawful to retaliate against or harass any person for filing an EEO discrimination complaint, seeking a reasonable accommodation for a disability or religious observance, or for cooperating in the investigation of an EEO complaint. Harassment and/or retaliation against a person who opposes or complains about prohibited conduct or participates in any way in the complaint, investigation, or reasonable accommodation processes are strictly prohibited.

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

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

Any employee who engages in such retaliation or harassment shall be subject to discipline, which may include reprimand, suspension, probation, demotion, transfer, termination, and any other measures calculated to eliminate such illegal or inappropriate behavior. The BP's Office will not tolerate any such retaliation.

If an employee or applicant for employment believes s/he is being harassed or retaliated against after consulting with the EEO Officer, filing a discrimination complaint, seeking a reasonable accommodation for a disability or religious observance, or cooperating in the investigation of a complaint, s/he is encouraged to also report this behavior to the EEO Officer for investigation and other action.

C. Procedures

1. Reporting Violations

Anyone who believes that s/he has been subjected to any action, decision, or harassment in violation of this Policy, or who witnesses others being subjected to improper conduct, is urged to promptly report the incident(s) to his/her manager or supervisor or consult with the EEO officer orally or in writing.

Managers and supervisors who receive EEO complaints must notify the EEO Officer. Managers and supervisors should also encourage individuals who believe that this policy has been violated to consult with an EEO Officer. Where the report is taken orally, the EEO Officer shall document the report.

Discrimination may include actions by an employee, paid or unpaid intern, or independent contractor of the Agency because of actual or perceived protected status. The EEO Officer will assist the employee or applicant to determine whether the issue s/he has raised is appropriate for resolution through the complaint process. Employees will not be retaliated against for consulting with the EEO Officer about a suspicion of discrimination or for filing a complaint or cooperating in an investigation. If any employee knowingly makes a false accusation of discrimination or knowingly provides false information in the course of an investigation of a complaint, such conduct may be grounds for discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

Any employee or job applicant should follow the same procedure if s/he believes that s/he has been sexually or otherwise harassed by an employee, paid or unpaid intern, or independent contractor of the Agency.

2. Filing an Internal Complaint or Seeking Assistance

You may file an internal EEO complaint in writing or orally or receive assistance with an EEO matter by contacting either (complaint form is included in the Appendix):

Ama Dwimoh, Esq.
(718) 802-3894
(EEO Officer)

Melody Ruiz
(718) 802-4095
(Deputy EEO Officer)

Richard Bearak
(718) 802-4057
(EEO Counselor)

3. Meeting with the EEO Officer

An employee has a right to meet privately with an EEO Officer during office hours. However, the employee should obtain approval from a manager or supervisor in order to leave his/her work assignment. An employee need not disclose to the manager or supervisor the purpose for, or details of, the meeting with the EEO officer. Reasonable leave requests to meet with the EEO Officer during work hours cannot be denied by managers and supervisors. Managers and supervisors shall allow employees to meet with the EEO Officer at the earliest practicable time consistent with the operational needs of their units.

The EEO Officer will interview the person seeking assistance to determine whether the person should receive assistance in the form of counseling, whether mediation would be appropriate, whether a complaint of discrimination should be filed and investigated, or whether a formal complaint with an external administrative agency should be filed.

At the employee's request, arrangements may also be made to hold the meeting before or after office hours, or during the employee's lunch period. The EEO Officer will arrange to meet with an employee at outside premises where necessary in order to ensure confidentiality. In addition, a person needing a sign language interpreter for a meeting concerning an EEO matter may request that the EEO Officer provide one. This also applies to alternate forms of effective communication to ensure persons with disabilities have access to EEO services.

Any person who is interviewed during the course of an EEO investigation has a right to be accompanied by a representative of his or her choice, provided the EEO Officer is given advance notice, including the representative's title or position.

All employees are expected to cooperate with EEO investigations. Failure to cooperate in an investigation may result in disciplinary action. Any person who is the subject of a complaint will have an opportunity to respond in writing.

a. Anonymous Complaints

Persons who wish to discuss a problem concerning discrimination without revealing their identity may do so by telephone or in writing to the EEO Officer. In such cases the EEO Officer will provide counseling and take such follow-up action as may be appropriate and possible given the restraints of anonymity. Anonymous complainants should be aware that it might be necessary for the EEO Officer to investigate the alleged discriminatory behavior and to take or recommend action to remedy unlawful behavior on behalf of the Agency, even if the anonymous complainant wishes to withdraw his/her complaint.

b. Confidentiality

All EEO matters will be handled under the supervision of the EEO Officer, in consultation with the Counsel's Office when appropriate. The EEO Officer will treat complaints and other information provided by employees confidentially. This means that information obtained from a person who seeks the assistance of the EEO Officer will not be discussed with other personnel except as necessary to investigate and resolve a complaint.

c. Mediation

Mediation is a voluntary, informal, and confidential process that provides an opportunity for everyone involved in a complaint to come to a mutual agreement about how the complaint should be resolved, and may be declined by either party involved. The person seeking assistance may file a written request for mediation. This is an alternative that may quickly resolve complaints without a full investigation. All requests for mediation should be made to the EEO Officer (a copy of the Request for Mediation form is included in the Appendix).

When a request for mediation has been made, the EEO Officer shall attempt to help the parties resolve the matter in dispute. During this process, the EEO Officer shall consult with the person who filed the request, the person named in the request, and other persons as appropriate.

If the parties agree to a resolution of the situation and any action needed to resolve the matter has received all necessary approvals, the EEO Officer shall prepare a written report confirming the resolution. The report shall be signed by all parties, and copies shall be given to all parties.

A request for mediation may be withdrawn at any time by the person who initiated it. If this occurs, the EEO Officer shall, in writing, inform all parties involved that the request was withdrawn. Mediation may also be terminated by any party to the mediation. If this occurs, the EEO Officer shall, in writing, inform the other party or parties that the mediation has been terminated. In the event that the mediation does not result in a resolution, the EEO Officer will provide the parties with a written statement informing the parties of the complainant's right to an investigation of the allegation.

The EEO Officer may terminate the mediation process if s/he deems that efforts at mediation have been unproductive. In such event, the EEO Officer shall provide the parties with a written statement confirming the termination. The statement shall inform the person who sought mediation of their right to file a complaint of discrimination. Where efforts to mediate complaints are unsuccessful, complaints will be investigated by the EEO Counsel.

4. Investigation of Complaints

Any person may file a written or oral complaint of discrimination with the EEO Officer at any time within one year of the date of occurrence of the subject of the complaint (a copy of the Complaint of Discrimination form is included in the Appendix). Requests for reasonable accommodations are not subject to any time limitations.

The EEO Officer may also determine that another form of communication, such as a telephone call, a letter, or when a person who has a disability which precludes his/her completion of the complaint form seeks to file a complaint, should be handled as a complaint. In such event, the EEO Officer shall complete the Complaint of Discrimination form. Any person who is interviewed in the course of an investigation shall have the right to be accompanied by a representative of his/her choice.

A person who has been named as the respondent in the discrimination complaint shall receive a copy of the complaint and shall have the opportunity to respond in writing.

If the EEO Officer concludes on the basis of the investigation that a violation of anti-discrimination laws or this Policy has occurred, the EEO Officer shall recommend appropriate corrective action to the Borough President in a confidential written report.

The Borough President will review the EEO Officer's report and take any corrective action that deemed appropriate. Any person found to have engaged in conduct or practices in violation of this Policy may be subject to discipline which may include a formal reprimand, suspension, probation, demotion, transfer, termination, fine, or any other measures permitted by law, rules and regulations, and/or collective bargaining agreements. In addition to implementing such disciplinary action, the agency may take other steps necessary to address the impact that any violation of this Policy has had on the complainant or within the Agency. The EEO officer will advise all parties in writing of the outcome of the complaint.

5. Other Places Where Complaints may be Filed

Any person who believes that s/he has experienced discrimination has a right to file a formal complaint (known as an "external complaint") with several federal, state or local agencies, some of which are listed below. A person does not give up this right when s/he files a complaint with the Agency's EEO Officer. The following federal, state, and local agencies enforce laws against discrimination:

<u>Agency Name</u>	<u>Address and Telephone</u>
New York City Commission on Human Rights	40 Rector Street, 10th Floor, New York, NY 10006 (212) 306-5070 275 Livingston Street, 2nd Floor, Brooklyn, NY 11217 (718) 722-3130
New York State Division of Human Rights	163 West 125th Street, 4th Floor, New York, NY 10027 (212) 961-8650 / (212) 961-8999 (TTY) 55 Hanson Place, Room 1084, Brooklyn, NY 11217 (718) 772-2385
United States Equal Employment Opportunity Commission	New York District Office 33 Whitehall Street, 5th Floor, New York, NY 10004 (800) 669-4000 / (800) 669-6820 (TTY)
Office of Citywide EEO	1 Centre Street, 17th Floor, New York, NY 10007 (212) 669-8648

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

<u>Agency Name</u>	<u>Address and Telephone</u>
U. S. Department of Justice Disabilities Rights Section	950 Pennsylvania Avenue, N.W., Washington, DC 20530 (800) 514-0301 / (800) 514-0383 (TTY)
NYS Justice Center for the Protection of People with Special Needs	161 Delaware Avenue, Delmar, NY 12054 (518) 549-0200

Please Note: There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days. Therefore, to preserve your rights, if you believe you have been discriminated against and wish to file a complaint with an external agency, promptly contact the appropriate agency or a private attorney for further guidance. Information about how to contact these agencies as well as additional information on other agencies can be found in the New York City EEO Policy Handbook.

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

6. Withdrawing Complaints

A complaint of discrimination may be withdrawn at any time by the person who filed the complaint unless it is anonymous. Withdrawal of a complaint must be made or confirmed in writing. In most cases, the EEO Officer will find it appropriate to end the investigation when the complaint is withdrawn. However, prior to making the determination to end the investigation, the EEO Officer must assess whether evidence has been found which requires the Agency to take corrective action to prevent or eliminate an illegal or inappropriate situation. If there is such evidence, the EEO Officer will continue the investigation until s/he is prepared to recommend whether the agency should take corrective action. In either event, the EEO Officer shall notify the respondent in writing that the complainant has withdrawn the complaint. The EEO Officer shall also notify the parties whether the investigation has been terminated or is continuing.

D. Requests for Reasonable Accommodations

1. Introduction

The BP's Office will make reasonable accommodations when requests are made in connection with disabilities, religion, and/or to accommodate individuals who are victims of domestic violence, sex offenses, or stalking, unless providing such accommodations create undue hardship (*see* Key Terms) for the Agency. The reasonable accommodations process shall be flexible and interactive. Whether an accommodation is reasonable generally depends upon the circumstances of each situation.

Some examples of accommodations which have been found reasonable for certain employers, under certain circumstances, include: job restructuring; making facilities physically accessible to and usable by persons with disabilities; modifying work schedules; providing or modifying equipment or devices; and providing auxiliary aides and services.

The requirement to provide reasonable accommodations applies to disabilities that are known, or should have been known, to the Agency. Where the need for accommodations is not apparent, the EEO Officer or the involved manager or supervisor may ask an employee, paid or unpaid intern, or job applicant to provide documentation in support of their request. The EEO Officer shall notify individuals who request reasonable accommodations whether the request has been granted. Where a request for reasonable accommodations is impracticable, the EEO Officer will seek to implement appropriate alternative reasonable accommodations.

2. Steps for Making a Request for Reasonable Accommodations

Step 1: An employee or applicant for employment can submit a request for reasonable accommodations to a manager, supervisor or to the EEO Officer responsible for the initial consultation. If the request is made to a manager or supervisor, s/he must contact the EEO Officer. The EEO Officer will facilitate discussions, research appropriate accommodations, and assist in the resolution of the matter.

A request for reasonable accommodations may be made in writing or orally (a Reasonable Accommodation Request Form is included in the Appendix). Where the request is made orally, it shall be documented by the EEO Officer. The manager, supervisor, or EEO Officer supervising the application process shall assist applicants in completing the form where requested.

If reasonable accommodations are requested to facilitate an individual's ability to apply for employment, the EEO Officer or Agency personnel supervising the application process may be required to assist the applicant in completing the application.

Where reasonable accommodations can be readily implemented, it shall be. In more complex situations, the EEO Officer or Agency personnel supervising the application process will proceed to Step 2.

Step 2: The EEO Officer or Agency personnel supervising the application process should analyze the position to determine its purpose and essential functions (*see* Key Terms).

Step 3: The EEO Officer must contact the requestor within 10 business days of the request to confirm receipt of the request and discuss possible resolutions. At that time, the EEO Officer may request additional information to determine if an individual's impairment is a "disability" under the Americans with Disabilities Act or the Rehabilitation Act of 1973, or to determine what would be effective reasonable accommodations.

Step 4: Where the requested accommodations create an undue hardship, the EEO Officer will work with other Agency personnel to try to implement appropriate alternative reasonable accommodations. The reasonable accommodations process is flexible and interactive to ensure that the best resolution for each situation is found. The EEO Officer shall notify individuals who request reasonable accommodations whether the request has been granted. The general time frame for processing a request (and implementing the accommodation, if approved) is 30 business days from the initial request.

3. Specific Aspects of Certain Types of Requests

a. Disabilities

By law, all documentation and information concerning the medical condition or history of an individual requesting reasonable accommodations for a disability must be collected and maintained on separate forms, and in separate medical files, apart from other personal data. Such information must be treated as confidential medical records, except that managers and supervisors may be informed of necessary restrictions on work or required accommodations. Furthermore, medical information may be provided to: 1) first-aid and safety personnel, if the disability might require emergency treatment; 2) government officials investigating the Agency's compliance with applicable laws; 3) Workers' Compensation offices in accordance with Workers' Compensation Law; and 4) for insurance purposes.

b. Victims of Domestic Violence, Sex Offenses, or Stalking

An employee or applicant requesting reasonable accommodations for domestic violence, sex offenses or stalking may make such requests to his/her manager, supervisor, agency personnel supervising the application process, or directly to the EEO Officer. The EEO Officer may require a person requesting a reasonable accommodation to provide certification that the person is a victim of domestic violence, sex offenses, or stalking. The person requesting reasonable accommodations shall provide a copy of such certification to the agency within a reasonable period after the request is made. A person may satisfy the certification requirement by providing: documentation from an employee, agent, or volunteer of a victim services organization;

an attorney, member of the clergy, medical provider, or other professional service provider from whom the individual seeking a reasonable accommodation, or that individual's family or household member, has sought assistance in addressing domestic violence, sex offenses, or stalking and the effects of the violence or stalking; a police or court record; or other information consistent with the disclosure and the request for reasonable accommodations.

c. Pregnancy

An employee or applicant requesting reasonable accommodations due to pregnancy and those who suffer medical conditions related to pregnancy, childbirth, or a related medical condition may make such requests to their manager, supervisor or the EEO Officer. Such reasonable accommodations may include bathroom breaks; leave for a period of disability arising from pregnancy, childbirth, or related medical conditions; breaks to facilitate increased water intake; periodic rest for those who stand for long periods of time; and assistance with manual labor, among other things.

d. Religion

A reasonable accommodation for religion may be a change in a workplace rule or practice that allows an individual to respect his/her religious observances, beliefs, or practices. Examples of such accommodations include: flexible arrival and departure times, and/or leave; voluntary exchanges of shifts or assignments; time and/or place to pray; accommodations relating to appearance and dress; and modifying workplace practices, policies, and/or procedures.

4. Effective Communication and Other Assistance

The EEO Officer shall be responsible for ensuring effective communication between all involved parties at every stage of the reasonable accommodations process. Effective communication may require arranging for sign language interpreters, assistive listening equipment, alternative formats for people with visual impairments, or other approaches. The EEO Officer shall also be responsible for providing such other reasonable assistance requested by employees, paid and unpaid interns, and job applicants throughout the reasonable accommodations and appeals processes.

5. Confidentiality

All Agency personnel must respect employee confidentiality. All documentation and information concerning the medical condition or history of an employee requesting accommodations must be collected on forms separate from other personnel-related forms and must be maintained by the EEO Officer in separate medical files. The information shall be treated as confidential medical records, except to the extent that: 1) the EEO Officer, manager, supervisor, or first-aid and safety personnel need to be informed about work restrictions or reasonable accommodations; 2) first-aid and safety personnel need to be informed if the disability may require emergency treatment; and 3) government officials investigating compliance with law.

EEO matters may be discussed with other persons who may have information about a complaint or who are necessary to implement reasonable accommodations for disability, religion, status as victims of domestic violence, sex offenses or stalking, and pregnancy, childbirth, or a related medical condition. Therefore, it may be necessary to disclose information to persons with a legitimate need to know about the matter.

6. Appeals to the Agency Head

Where an employee or applicant has requested reasonable accommodations consistent with this policy and has not been provided with those accommodations, an appeal may be made to the Borough President. Within 10 business days of receipt of the appeal, the Borough President or designee shall:

- a. Obtain from the EEO Officer and review all documentation relating to the request for reasonable accommodations;
- b. Meet with the manager, supervisor, or EEO Officer and the job applicant or employee;
- c. Consult with the EEO Officer;
- d. Review the essential job functions, job-related limitations involving the job applicant's or employee's disability, and potential accommodations;
- e. Evaluate the reasonableness of the employee, paid or unpaid intern, job applicant, or manager/supervisor preferences, giving primary consideration to the employee's preferences; and
- f. Consult with the Mayor's Office for People with Disabilities.

Within 15 business days of receipt of the appeal, the Borough President shall issue a written determination on the request for reasonable accommodations, specifying what accommodations shall be provided, if any, and directing the manager or supervisor to implement such accommodations promptly. The EEO Officer shall monitor implementation of the reasonable accommodations.

7. Discrimination

This reasonable accommodations procedure is intended to ensure equal employment opportunities for employees with disabilities, but shall not impede the right of any employee to file a complaint with the EEO Officer, an appropriate federal oversight agency under the Americans with Disabilities Act, the Rehabilitation Act of 1973, the State Division of Human Rights, the New York City Commission on Human Rights, or any other federal, state, or local agency having jurisdiction over such matters, or in any court of competent jurisdiction.

8. Further Guidance

Throughout the reasonable accommodation process, employees, paid or unpaid interns, or job applicants may seek guidance by consulting with the EEO Officer, Ama Dwimoh (718) 802-3894, the Deputy EEO Officer, Melody Ruiz (718) 802-4095, the EEO Counselor, Richard Bearak (718) 802-4057 or by calling the Mayor's Office for People with Disabilities at (212) 788-2830 (voice) or (212) 788-2838 (TTY).

9. Additional Sources of Procedural Information

The Guidelines for the Implementation of the City's Discrimination Complaint Procedures may be found online at: http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo_discriminationcomplaintprocedures.pdf

The City's Reasonable Accommodation Policy and Procedure may be found online at: http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo_reasonableaccommodation.pdf

E. Diversity

The BP's Office promotes equal employment opportunities and diversity and inclusion by continuing effective measures or implementing new strategies and programs (i.e., preventive, corrective and risk management strategies in areas such as recruitment, training, selection, promotion, and policy dissemination standards) that prevent, diminish, or eliminate barriers to equal opportunity employment.

1. Minimum Standards

The BP's Office is committed to ensuring fair employment practices and promoting a workplace that values its employees in support of the City's diversity and inclusion strategy. This commitment holds managers, supervisors, and EEO Officers accountable for ensuring that the Agency does not discriminate against employees, paid or unpaid interns, or job applicants, and supporting the diversity and inclusion initiatives of the Agency.

The BP's Office will assess recruitment efforts to determine whether such efforts adversely impact any particular group and what recruitment sources yield a diverse pool of qualified candidates. Specifically:

- The BP's Office is committed to ensuring that appropriate diversity, inclusion, and equal opportunity employer messaging are included in job postings
- The BP's Office will ensure that the manner in which candidates are selected for employment does not have any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, the agency head will determine whether the criteria being utilized are job-related. If the criteria are not job-related, the agency will discontinue using that method. Methods which diminish adverse impact will be preferred over those with greater impact, provided that the agency's job-related aims are not compromised by using the method with a diminished impact. Examples of selection methods which may diminish adverse impact include race/ethnicity-neutral and gender-neutral questions in interview materials and assembling interview panels that reflect gender, race and ethnic diversity.
- The BP's Office is committed to ensuring that all new employees are advised of this Policy, their rights and responsibilities under it, discrimination complaint and investigation procedures, and the reasonable accommodations procedures.
- The BP's Office is committed to reviewing and retaining information, on a regular basis, about personnel actions, discretionary hiring, applicants, promotions, demotions, transfers, rates of pay, terms of compensation, and selection for training or apprenticeship as required by federal, state, and local law, and/or the City's official records retention schedule.

2. Agency Head

The Agency head will ensure that the agency does not discriminate against employees or applicants for employment as prohibited by federal, state and local laws. The Agency head will also ensure that legal, human resources, and EEO personnel, managers, and supervisors: 1) receive a copy of this Policy (including any addenda); 2) are trained in EEO laws and procedures; and 3) know how to carry out their responsibilities under this Policy.

In order to meet the Agency's obligations under this Policy and other federal, state and local laws, and to achieve the goals of the Agency's Diversity and EEO Plan, the agency head must appoint a trained EEO Officer whose responsibility it will be to implement this Policy.

F. Key Terms

- *Essential functions* are duties that are fundamental to a position including, among others, those for which the position exists, those that only a limited number of employees are available to perform, or those that cannot be delegated. Evidence of what constitutes an essential function may include, but is not limited to: the employer's judgment; written job descriptions, if any; the amount and/or proportion of time spent performing the function; the consequences of not requiring a function; the terms of a collective bargaining agreement; the work experience of the incumbents; the position exists to perform the function; a limited number of employees are available to whom the function can be assigned; whether the function is so highly specialized that it must be held by an employee selected for the ability to perform that function; and/or other relevant evidence.
- A *qualified applicant* or *employee* is an individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of a position and who, with reasonable accommodation (if needed), or without accommodation (if none is needed), can perform the essential functions of that position.
- *Reasonable accommodations* are modifications or adjustments to the application process, work environment, or to the manner or circumstances under which a position is customarily performed, that promote equal employment opportunity for an individual with a disability. Reasonable accommodations enables a qualified applicant or employee with a disability to be considered for a position or to perform its essential functions, or to enjoy benefits and privileges of employment that are equal to those enjoyed by similarly situated employees without disabilities. Accommodations are not reasonable if they impose an undue hardship on the employer.
- *Undue hardship* exists when a course of action is significantly difficult, unduly costly, extensive, substantial, or disruptive, or would fundamentally alter/change the nature or operation of the Agency's business.

Appendix

- A. Discrimination Complaint Form
- B. Request for Mediation Form
- C. Reasonable Accommodation Form

COMPLAINT OF DISCRIMINATION

DO NOT WRITE IN THIS SPACE
COMPLAINANT
VS.
RESPONDENT
CASE NO.
DATE FILED

Please print the following information:

Name _____

Civil Service Title _____

Office Title _____

Division _____

Your Supervisor _____

What is the alleged basis of discrimination? (Check all which apply)

Age _____

Marital Status _____

Alienage or Citizenship Status _____

Military Status _____

Color _____

National Origin _____

Prior Record of Arrest or Conviction _____

Race _____

Genetic Predisposition _____

Disability _____

Religion or Creed _____

Sexual Orientation _____

Gender (Including Gender Identity) _____

Status as a Victim of Domestic Violence, Sex Offender or Stalking _____

Retaliation for filing/assisting in investigation of complaint _____

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

When did the alleged discrimination occur?

Where did it happen?

Were there witnesses to the discrimination?

(If yes, please give the name, title and division where any witness is employed on the attached sheet marked confidential.)

Did you report this incident to anyone? If so, please state the name, title and division of the person to whom you reported it.

Have you filed a complaint about the alleged discrimination with any of the following City, State, or Federal agencies? If so, please state the date and number of the complaint.

New York City Commission on Human Rights

New York State Division of Human Rights

NYS Justice Center for the Protection of People with Special Needs

United States Equal Employment Opportunity Commission

United States Department of Law

United States Department of Justice Disabilities Rights Section

Office of Citywide Equal Employment Opportunity

Mayor's Office for People with Disabilities

Describe the incident that you believe constitutes unlawful discrimination. Please use extra pages if necessary.

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

Complainant's Signature

Date

REQUEST FOR MEDIATION
OFFICE OF THE
BROOKLYN BOROUGH PRESIDENT

Believing that I have a valid complaint of discrimination and desiring to resolve that complaint, if possible without resorting to formal investigation, I respectfully request that the agency EEO Officer attempt to mediate my complaint in accordance with the City of New York's Discrimination Complaint Procedures and the guidelines implementing those procedures.

NAME OF COMPLAINANT OR AUTHORIZED AGENT

SIGNATURE OF COMPLAINANT OR AUTHORIZED AGENT

DATE

WITNESSED BY:

NAME OF EEO OFFICER

SIGNATURE OF EEO OFFICER

DATE

REQUEST FOR REASONABLE ACCOMMODATIONS

The Brooklyn Borough President's Office will make reasonable accommodations to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment and the employment process, unless providing such accommodations would impose an undue hardship. This form shall be made available to and used by all applicants and employees requesting reasonable accommodations, in conjunction with the Agency's Reasonable Accommodations Policy and Procedure.

INSTRUCTIONS: Applicants should complete Sections I and II and submit this form to the agency staff supervising the applicant process. Current employees should complete Section I and III and submit this form to their immediate supervisors. Supervisors receiving requests for reasonable accommodations should complete Section IV, return one copy of the completed form to the applicant or employee requesting the accommodations, and immediately forward a second copy of the form to the agency's EEO Officer. The EEO Officer should complete and update Section V as appropriate. Agency supervisory staff and/or the EEO Officer shall assist applicants or employees in completing this form as requested.

Section I – This section should be completed by both applicants and current employees.

Name: _____

Address: _____

Telephone/Cell Phone Number: _____

Accommodations Requested (____ additional sheets attached): _____

Section II – Complete this section only if you are a job applicant.

Position/Title applied for: _____

Agency or Unit (if known): _____

Location of Position (if known): _____

Job Vacancy Number (if known): _____

Section II – (for job applicants only) – continued

Part(s) of employment process for which reasonable accommodations are requested (e.g., application, examination, or interview):

Agency Contact Person (if known): _____

Date of Examination/Interview: _____

Section III – Complete this section only if you are an employee (even if you are currently on leave):

Position/Title: _____

Agency/Unit: _____

Location: _____

Supervisor: _____

Section IV – To be completed by agency staff supervising the employment application process or supervising an employee requesting reasonable accommodations.

Supervisor – Name and Title: _____

Agency/Unit: _____

Location: _____

Phone: _____

Date Request Received: _____

Supervisor's Signature: _____

Appendix - 3

Office of the Brooklyn Borough President
EEO Complaint Procedural Guidelines, City of New York
2016

EEO Complaint Procedural Guidelines

City of New York

2016



Department of Citywide Administrative Services

Table of Contents

- A. Overview 1
- B. The EEO Complaint Process *at a Glance* 2
- C. The Intake Phase 3
- D. Mediation 6
- E. Investigation 7
- F. Preparing the Final Report 11
- G. Appendices 12

THE CITY OF NEW YORK
EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT
PROCEDURAL GUIDELINES

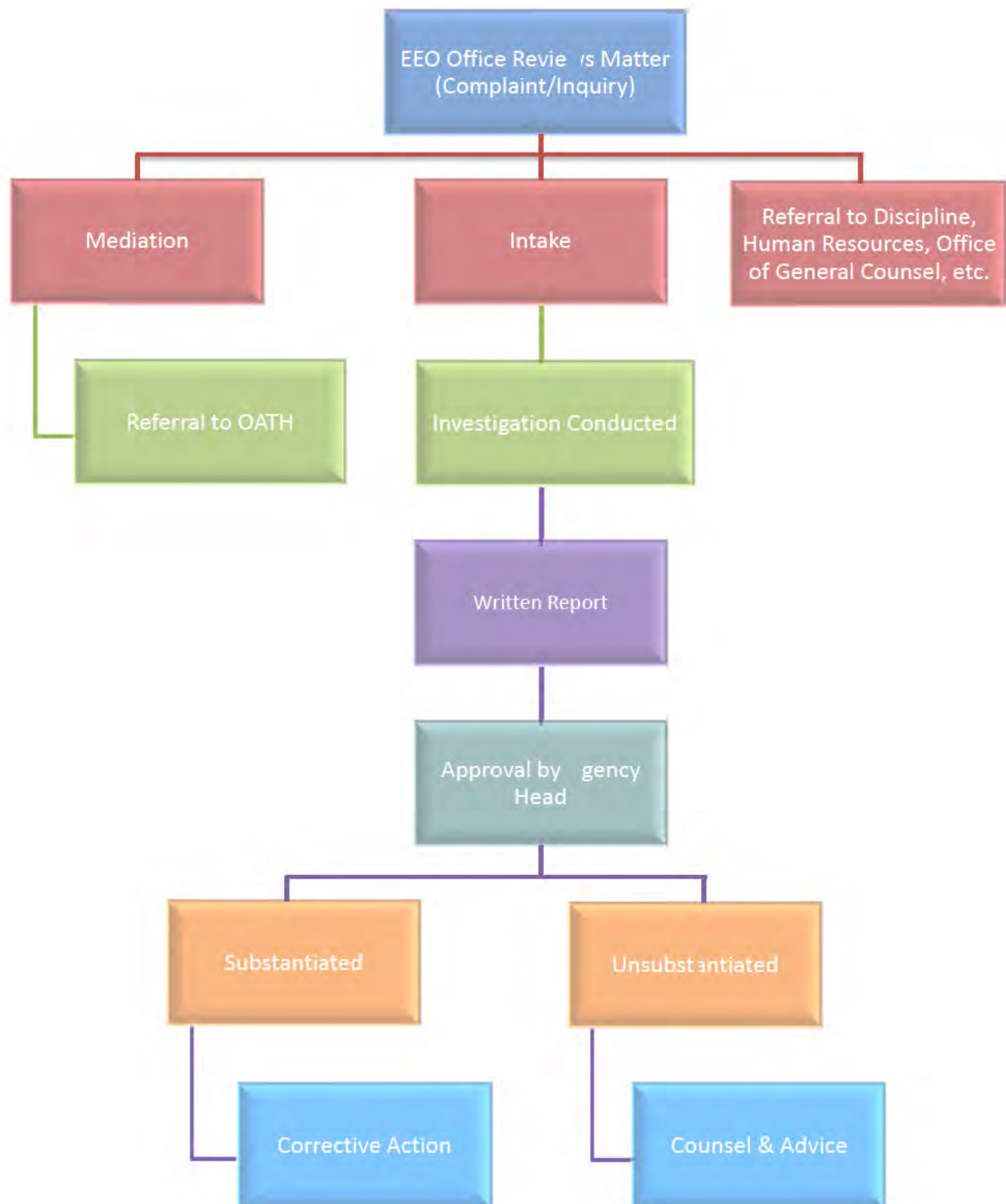
Overview

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

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

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

The EEO Complaint Process *at a Glance*



THE INTAKE PHASE

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

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

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

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

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

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

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

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

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

subsequent complaint involves separate allegations.

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

should be referred to the agency's EEO Officer.

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

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

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

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

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

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

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

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

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

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

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

MEDIATION

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

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

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

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

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

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

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

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

INVESTIGATION

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

Conducting Interviews

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

Notice to Respondent of the Complaint

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

Amending the Complaint

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

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

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

Right to be Accompanied by a Representative

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

Confidentiality and Record Keeping

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

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

Meeting with EEO Office and Obligation to Cooperate

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

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

False Allegations

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

Agency As Respondent

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

PREPARING THE FINAL REPORT

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

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

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

Informing Parties of Outcome

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

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

APPENDICES

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

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

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

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

SAMPLE A – Intake Form

[Insert agency name and logo]

Complaint #: _____

Date received: _____

Origin (circle one): Letter Telephone Office Visit Email

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

1. Contact Information

Name _____

Title _____ Employee ID# _____

Work Unit _____ Location _____

Work Telephone # _____ Shift _____

Home Address _____

City _____ State _____ Zip _____

Home Phone # _____

Cell Phone # _____ Email Address _____

2. Subject/Respondent Information

Name _____

Title _____ Employee ID# _____

Work Unit _____ Location _____

Work Telephone # _____ Shift _____

Home Address _____

City _____ State _____ Zip _____ Home Phone # _____

Cell Phone # _____ Email Address _____

Complaint #: _____

Describe the nature of the complaint

Attach additional sheets as necessary

- Supervisor Behavior Employee Behavior Employment Practice

What resolution are you seeking?

Action(s) taken by EEO Office

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

Date: _____

Department / Contact: _____

- Inquiry/Investigation Commenced

Complaint #: _____

SAMPLE B – Complaint Form

[Insert agency name and logo]

Complaint of Discrimination

(Please print the following information)

Name *ERN* Division/Office/Agency

Civil Service Title Office Title Supervisor

What is the alleged basis of discrimination?

(Please check all that apply)

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

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

y
ou.

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

Where did the alleged incident occur?

Were there witnesses to the discrimination? Yes _____ No _____

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

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

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

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

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

Complaint# _____ Date Filed: ____/____/____

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

What corrective action do you want taken?

Complaint of Discrimination

Page 2

Description of Alleged Unlawful Discrimination

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

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

Date: ____/____/____

Complainant's Signature _____

NOTICE

YOUR RIGHTS TO FILE A COMPLAINT WITH CIVIL RIGHTS ENFORCEMENT AGENCIES

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

NEW YORK CITY COMMISSION ON HUMAN RIGHTS

40 Rector Street

New York, NY 10006

(212) 306-7450

(212) 306-7686 (TTY)

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

NEW YORK STATE DIVISION OF HUMAN RIGHTS

One Fordham Plaza, 4th Floor

Bronx, NY 10458

(718) 741-8400

or

163 West 125th Street, 4th Floor

New York, NY 100270

(212) 961-8650

(212) 961-8999 (TTY)

or

20 Exchange Place, 2nd Floor

New York, NY 10005

(212) 480-2522

or

55 Hanson Place, 3rd Floor

Brooklyn, NY 11217

(718) 722-2856

Web site: www.nysdhr.com

UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office

33 Whitehall Street, 5th Floor

New York, NY 10004

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

Web site: www.eeoc.gov

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

UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION

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

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

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

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

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

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

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

SAMPLE C – Witness Information Form

[Insert agency name and logo]

**WITNESS INFORMATION FORM
CONFIDENTIAL**

Complaint # _____

Complainant's Name: _____

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

Please complete a separate form for each witness

(Please Print)

Name: _____

Agency: _____

Division: _____

Civil Service or Office Title: _____

Address/Location: _____

Telephone :() _____

SAMPLE D – EEO Complaint Activity Sheet

[Insert agency name and logo]

EEO Investigator: _____ Complaint #: _____

DATE	NAME	NATURE OF CONTACT

SAMPLE E – CHECKLIST: TYPICAL QUESTIONS TO ASK A COMPLAINANT

- What is the basis of your complaint?

- What is the specific behavior that you experienced?

- Who was engaged in the behavior?

- When did the incident(s) take place?

- Was the behavior repeated or has it happened before?

- How long has this been going on?

- Where did the incident take place?

- How, if at all, did you react?

- Was your ability to work affected in any way?

- How were you affected otherwise?

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

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

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

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

SAMPLE F – Acknowledgment of Receipt of Policy

[Insert agency name and logo]

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

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

Signature of Employee

Date

EEO Representative

Date

SAMPLE G – Inquiry Letter to Complainant

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

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

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

Sincerely,

EEO OFFICER

SAMPLE H – Notice of Discrimination Complaint

Complainant v. Respondent

On _____,
Date Complainant's Name(s)

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

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

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

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

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

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

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

EEO Officer or designee

Date

SAMPLE I – Request for Withdrawal of Complaint

[Insert agency name and logo]

RE: COMPLAINT # _____

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

I wish to withdraw this complaint because

Complainant's Signature

Date

FOR OFFICE USE ONLY

ACCEPTED: YES NO

COMMENTS:

EEO Office Representative Signature

Date

SAMPLE J – Administrative Closure Letter

[Insert agency name and logo]

Date

Ms. / Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

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

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

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

Sincerely,

EEO Officer

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

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

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

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date

Ms. / Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint #

Dear Ms. _____:

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

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

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

Dear Ms. _____:

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date

Ms./Mr. FIRST NAME LAST NAME

STREET ADDRESS

BOROUGH, New York #####

Re: EEO Complaint # _____

Dear Ms. _____:

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

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

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

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

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

Sincerely,

EEO OFFICER

c: Commissioner

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

[Insert agency name and logo]

Date: _____

To: _____ [Agency Head]

From: _____ [EEO Officer or Investigator]

Re: _____ [EEO Complaint Number]

Complainant: _____

Respondent: _____

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

Statement of Basis of Complaint:

This complaint alleges discrimination in the form of _____

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

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

Summary of History of Complaint:

- _____

- _____

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

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

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

The documents that were reviewed are listed as follows:

- _____
- _____
- _____

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

- _____
- _____
- _____

Findings of Fact

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

- _____

- _____

- _____

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

- _____

- _____

Statement of Response:

The Respondent responded to the allegations by stating

Opinions:

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

Determination:

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

Conclusion and Recommendations:

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

Date: _____

[Signature] EEO Officer

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

The recommendations meet with my approval and will be adopted _____

The recommendations made above do NOT meet with my approval _____

Comments:

Date: _____

[Signature] Agency Head



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

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel

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

253 Broadway
Suite 602
New York, NY 10007

212. 615.8939 tel.
212. 676.2724 fax

BY MAIL AND EMAIL

September 21, 2018

Eric Adams
Borough President
Office of the Brooklyn Borough President
209 Joralemon Street
Brooklyn, NY 11201

RE: Audit Resolution #2018AP/223-012-(2018): Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of the Brooklyn Borough President's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Borough President Adams:

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. Consistent with the powers and duties of agency heads, set forth in New York City Charter, this Commission requires the agency head to issue the response to this Final Determination.

As the EEPC did not receive the Office of the Brooklyn Borough President's response to our September 4, 2018 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 standards¹ to assess agencies' employment practices and programs for compliance with federal, state and local laws, regulations, policies and procedures that are designed to increase equality of opportunity for municipal government employees and job applicants. 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.

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



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

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

If corrective actions remain: Your agency's response should indicate what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Documentation that supports the implementation of each corrective action shall be uploaded to TeamCentral, the EEPC's Automated Compliance-Monitoring System. Your agency will be monitored monthly until all corrective actions have been implemented. Instruction on how to access and navigate TeamCentral is attached. Upon your agency's completion of the final corrective action, this Commission requires that your agency upload a final memorandum signed by the agency head, 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 contact Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at jshaw@eepc.nyc.gov or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry, PHR
Executive Director

C: Ama Dwimoh, Principal EEO Professional, Chief Compliance and EEO Officer
Melody Ruiz, Chief Administrative Officer and EEO Officer

Enclosed: TeamCentral Agency Manual



FINAL DETERMINATION
9/21/2018

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

Charise L. Terry, PHR
Executive Director

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel

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

253 Broadway
Suite 602
New York, NY 10007

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

BY MAIL AND EMAIL

September 4, 2018

Eric Adams
Borough President
Office of the Brooklyn Borough President
209 Joralemon Street
Brooklyn, NY 11201

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

Dear Borough President Adams:

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

Chapter 36, Section 831(d)(5) of the New York City Charter empowers this Commission to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for women and minority employees and applicants seeking employment. Sections 831(d)(2) and 832(c) authorize this Commission to make a determination that any agency's plan, program, procedure, approach, measure or standard does not provide equal employment opportunity, require appropriate corrective action and monitor the implementation of the corrective action it prescribes.

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

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

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

Scope and Methodology

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

EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and others involved in EEO program administration such as the Principal Human Resources Professional are given a three-week deadline to complete and return their individual questionnaires. The Commission's EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

Description of the Agency

"The Borough Presidents are the executive officials of each borough. The City Charter gives them authority to: work with the Mayor in preparing the annual executive budget submitted to the City Council and to propose borough budget priorities directly to the council; review and comment on major land use decisions and propose sites for city facilities within their respective boroughs; monitor and modify the delivery of city services within their boroughs; and engage in strategic

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

planning for their boroughs. The Borough Presidents appoint members to Community Boards who serve without compensation, and each chairs a Borough Board. Each Borough President maintains a topographical bureau.”² The CEEDS Report: *Work Force Composition Summary* for the Office of the Brooklyn Borough President, attached as Appendix 1, indicates that at the end of the period in review the agency’s headcount was 68.

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 non-compliance with the standards for this subject area.

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- ✓ On June 3, 2016, the principal Human Resources Professional (*Chief Administrative Officer and Deputy EEO Officer*) emailed employees a copy of the agency head’s 2016 EEO Policy Statement. The EEO Policy Statement reiterated commitment to EEO stating, “[a]s Borough President, I reaffirm this Agency’s strong commitment to maintain fair employment practices for all employees and job applicants. The implementation of the enclosed Policy in preventing discrimination is one of my highest priorities and has my full support.”
 - The agency’s EEO Policy Statement was not issued annually and did not state commitment to the prevention of sexual harassment. Corrective Action Required.

Corrective Action 1: Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
- ✓ On June 3, 2016, the principal Human Resources Professional (*Chief Administrative Officer and Deputy EEO Officer*) emailed all employees a copy of the *Office of the Brooklyn Borough President Equal Employment Opportunity Policy* (EEO Policy), attached as Appendix 2. The EEO Policy conformed to state and federal laws against sexual harassment and included

² “Borough President – Brooklyn.” *Green Book Online*, City of New York, 2015, <http://a856-gbol.nyc.gov/GBOLWebsite/GreenBook/Details?orgId=2854>

procedures for investigating discrimination/sexual harassment complaints, a definition of sexual harassment, and the names and telephone numbers of the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment. The EEO Policy directed employees, via electronic link, to the City of New York's *EEO Complaint Procedural Guidelines, City of New York* (EEO Complaint Procedural Guidelines), attached as Appendix 3, as an additional source of procedural information. In addition, Section A.1 of the EEO Policy stated, "[e]veryone who works or seeks employment within the BP's Office is covered by federal, state, and local employment laws, and this Policy." The agency reported its EEO Policy was included in the package provided to all new hires.

- The agency's EEO Policy did not include caregiver status and consumer credit history in its list of classes protected against employment discrimination. Corrective Action Required.

NOTE: The address listed for the New York City Commission on Human Rights in the agency's EEO Policy is inaccurate. The agency's draft 2017/2018 EEO Policy identified caregiver status and consumer credit history in its list of classes protected against employment discrimination.

Corrective Action 2: Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

II. EEO TRAINING FOR AGENCY:

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

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
- ✓ The agency's training records indicated that 65 employees (approximately 96% of the workforce³) completed the Department of Citywide Administrative Services (DCAS) Citywide Training Center's (CTC) computer-based EEO training in 2017. The computer-based EEO training included the definition of sexual harassment, prevention of sexual harassment and discrimination complaint and investigation procedures.

NOTE: The agency should establish a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive

³ Based on workforce headcount at the end of the period in review, December 31, 2017, attached as Appendix 1.

training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

III. COMPLAINT & INVESTIGATION PROCEDURES

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

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

4. Include in the complaint file a completed *Complaint Intake Form*, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
- ✓ The agency's *Complaint of Discrimination* intake form, attached to the EEO Policy, captured "...the alleged basis of discrimination ...the name, title and division of the person(s) you believe discriminated against you ...[when] the alleged discrimination occurred," and "[w]here did it happen." The complaint form also asked the complainant to "[d]escribe the incident that you believe constitutes unlawful discrimination. Please use extra pages if necessary."
5. Provide the option to file a complaint anonymously.
- ✓ The option to file a complaint anonymously was provided to employees via Section C.3.a of the EEO Policy that stated, "[p]ersons who wish to discuss a problem concerning discrimination without revealing their identity may do so by telephone or in writing to the EEO Officer. In such cases the EEO Officer will provide counseling and take such follow-up action as may be appropriate and possible given the restraints of anonymity. Anonymous complainants should be aware that it might be necessary for the EEO Officer to investigate the alleged discriminatory behavior and to take or recommend action to remedy unlawful behavior on behalf of the Agency, even if the anonymous complainant wishes to withdraw his/her complaint."
6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.
- ✓ The rights of respondents in complaint investigations were discussed in Section C.3 of the EEO Policy that stated, "[a]ny person who is interviewed in the course of an investigation shall have the right to be accompanied by a representative of his/her choice. A person who has been named as the respondent in the discrimination complaint shall receive a copy of the complaint and shall have the opportunity to respond in writing."

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
 - ✓ The EEO Policy discussed maintaining written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office, in Sections C.3.c and C.6. Section C.3.c of the EEO Policy stated, “[i]f the parties agree to a resolution of the situation and any action needed to resolve the matter has received all necessary approvals, the EEO Officer shall prepare a written report confirming the resolution. The report shall be signed by all parties, and copies shall be given to all parties. A request for mediation may be withdrawn at any time by the person who initiated it. If this occurs, the EEO Officer shall, in writing, inform all parties involved that the request was withdrawn. Mediation may also be terminated by any party to the mediation. If this occurs, the EEO Officer shall, in writing, inform the other party or parties that the mediation has been terminated.” Section C.6 of the EEO Policy reiterated that “[a] complaint of discrimination may be withdrawn at any time by the person who filed the complaint unless it is anonymous. Withdrawal of a complaint must be made or confirmed in writing.”
8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
 - ✓ Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines as an additional source of procedural information. Section E of the EEO Complaint Procedural Guidelines directed investigators to, “...take thorough notes, as close to verbatim as possible ... [during interviews to] reflect the content of the interview, both the questions and answers, as completely as possible... All complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office.”
9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
 - ✓ Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines as an additional source of procedural information. Section C of the EEO Complaint Procedural Guidelines stated, “[b]egin investigation immediately after determining that the allegations raised, if true, are sufficient to establish a case of discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint. Complete an investigation within 90 calendar days of the filing of the complaint.” In addition, Section F of the EEO Complaint Procedural Guidelines asserted that, “[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system.”
10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the

reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

- ✓ Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines as an additional source of procedural information. Section F of the EEO Complaint Procedural Guidelines directed investigators that a conclusive *“...final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office, unless the time period is extended by the EEO Office for good cause, with written notice to the parties and memorialized in the investigative file and/or the complaint tracking system. The EEO Office must document the reason for the delay, and project a time frame for the completion of the report.”*

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head’s Review.

- ✓ Section C.4 of the EEO Policy stated, *“[i]f the EEO Officer concludes on the basis of the investigation that a violation of anti-discrimination laws or this Policy has occurred, the EEO Officer shall recommend appropriate corrective action to the Borough President in a confidential written report.”*

Section D.9 of the EEO Policy also directed employees, via electronic link, to the EEO Complaint Procedural Guidelines which elaborated, in Section F, that, *“[t]he final investigative report must be completed and the parties must be notified of the outcome within 90 calendar days from the date the complaint was filed with the EEO Office... The written [final investigative] report should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation. The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified.”*

12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

- ✓ The agency reported EEO files were stored securely in the Human Resources Unit in a locked office and credenza. Section D.9 of the EEO Policy also directed employees to the EEO Complaint Procedural Guidelines, which stated, *“[c]omplaints and complaint investigations should be accorded the strictest confidentiality possible. All complaints and related documents, including any investigative notes, records, or copies, are strictly confidential and must be maintained by the EEO Office.”*

13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
 - ✓ Section C.4 of the EEO Policy stated, “[t]he Borough President will review the EEO Officer's report and take any corrective action that [sic] deemed appropriate.” Furthermore, Section F of the EEO Complaint Procedural Guidelines stated that investigators were to prepare a written “...final investigative report...[which] should include a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered during the investigation, a conclusion/determination and recommendation. Conclusions must be supported by facts uncovered during the investigation. The Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified.”
14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the complaint investigation procedure.
 - ✓ Section C.4 of the EEO Policy stated, “[t]he EEO officer will advise all parties in writing of the outcome of the complaint.”
15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

Section D.9 of the EEO Policy directed employees, via electronic link, to the EEO Complaint Procedural Guidelines, which stated in Section F that “[t]he Agency Head must sign each written report and indicate that it has been reviewed and whether the determination and recommendation, if any, is adopted, rejected or modified... [and] the EEO Office should inform all parties in writing of the outcome of the investigation.”
16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.
 - ✓ Section C.5 of the EEO Policy discussed external complaints and stated, “[t]he EEO Officer will notify the complainant and the parties who are the subject of the complaint, in writing, that the investigation by the EEO Officer has been transferred because of the filing of the external complaint.”
17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

- ✓ The agency's paper complaint tracking and monitoring system was capable of capturing the following information: *Complainant, Respondent, Unit, Status, Date Filed, and Date [resolved]*.

NOTE: The agency's complaint tracking and monitoring system should be updated to also capture *location, the issues and the bases of the complaints*.

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
- ✓ The agency does not have a General Counsel. The principal EEO Professional (also the *Executive Agency Counsel* and *Special Counsel to the Borough President*) and principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) were responsible for identifying and determining appropriate responses to sexual harassment complaints, the implementation of the agency's policies regarding sexual harassment and the investigation of and response to internal and external sexual harassment complaints. The *Executive Agency Counsel* job description outlined that the position serves as the legal adviser to the agency head, drafter of the agency's important policy statements, and the agency representative in complex legal cases.

IV. ANNUAL REVIEW OF PRACTICES, POLICIES AND PROGRAMS

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

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
- ✓ The agency's *Executive Agency Counsel* and *Special Counsel to the Borough President* was the principal EEO Professional. The agency reported that the principal EEO Professional and principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) reviewed the agency's employment practices, policies and programs on an annual basis to identify what, if any, actions were required to correct deficiencies. (There were no complaints during the period in review.)

The agency reported that the *Deputy EEO Officer* annually compiled documentation for use when the principal EEO Professional annually reviewed and updated the EEO Policy. The differences between the agency's June 2016 EEO Policy and its draft 2017/2018 EEO Policy demonstrated the agency's identification and correction of deficiencies in its EEO Policy.

Specifically, the agency's EEO Policy draft changes included listing *caregiver status* and *consumer credit history* as classes protected against employment discrimination. The agency's EEO Policy changes also included the addition of a subsection titled "Sex, Gender, and Sexual Orientation" to sections "Specific Protections" and "Requests for Reasonable Accommodations."

V. RESPONSIBILITY FOR IMPLEMENTATION - EEO PROFESSIONALS

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

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state and federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
- ✓ The principal EEO Professional (also the *Executive Agency Counsel* and *Special Counsel to the Borough President*) was appointed in 2014. The principal EEO Professional completed the Practicing Law Institute course *Diversity & Inclusion in Law Practice 2013* in February 2013, the DCAS CTC training *Religion in the Workplace* (May 2014), and a five day *Diversity and EEO Basic Training* for EEO professionals (June 2014). The five day *Diversity and EEO Basic Training* covered EEO obligations under city, state and federal EEO laws and the agency's EEO policies, standards and procedures; as well as the prevention, investigation, and resolution of discrimination complaints.
21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.
- ✓ The agency reported that it ensured that the responsibilities of the principal EEO Professional were competently discharged by providing dedicated EEO-related support staff, specifically a *Deputy EEO Officer* and two *EEO Counselors* (see §V.22). Employees were directed by the EEO Policy Statement to contact any member of the EEO Office "...to file an internal EEO complaint in writing or orally or [to] receive assistance with an EEO matter." All members of the EEO Office were available to assist in completing reasonable accommodation requests or in the filing of discrimination complaints. Only the principal EEO Professional and Deputy EEO Officer conducted EEO complaint investigations.
 - The agency did not demonstrate that during the period in review, the principal EEO Professional had access to continuing education and professional development training.
Corrective Action Required.

Corrective Action 3: Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing continuing education and professional development.

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and their responsibilities under the EEO Policy.

- ✓ At the end of the period in review, the *Citywide Equal Employment Database System* reported 68 employees and the agency reported 15 divisions at a single location. The agency's organization charts indicated that the EEO Office consisted of the principal EEO Professional, a *Deputy EEO Officer*, and two part-time *EEO Counselors* (who collectively were members of the following divisions at the agency: Office of the Special Counsel, HR/Administration and Land Use).

All EEO professionals completed DCAS' five-day *Diversity and EEO Basic Training* for EEO professionals (see §V.20 for training topics). The *Deputy EEO Officer* also completed DCAS CTC's *Religion in the Workplace* (May 2014).

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

- ✓ The agency's *Executive Agency Counsel* and *Special Counsel to the Borough President* was the principal EEO Professional. The principal EEO Professional and Principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) demonstrated their collaboration in the implementation of the agency's policies regarding sexual harassment via their review and update of the EEO Policy, (see §IV.19) and the Principal Human Resources Professional's email distribution of the EEO Policy (see §I.2).

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

- ✓ The principal EEO Professional and principal Human Resources Professional (also the *Chief Administrative Officer* and *Deputy EEO Officer*) ensured that all employees completed sexual harassment prevention training by way of DCAS CTC's computer-based EEO training, and were responsible for ensuring that the EEO policies could be viewed in large print, electronically and could be provided in audio format upon request. In addition, the EEO Policy and EEO Compliant Investigation Procedures established that the principal EEO Professional was responsible for ensuring that managers, supervisors and human resource professionals received guidance on issues pertaining to sexual harassment; and that allegations of sexual harassment were promptly investigated. Section C.1 of the EEO Policy informed all employees,

including managers and supervisors, that “[a]nyone who believes that s/he has been subjected to any action, decision, or harassment in violation of this Policy, or who witnesses others being subjected to improper conduct, is urged to promptly report the incident(s) to his/her manager or supervisor or consult with the EEO officer orally or in writing. Managers and supervisors who receive EEO complaints must notify the EEO Officer. Managers and supervisors should also encourage individuals who believe that this policy has been violated to consult with an EEO Officer.” Section C.1 further stated that “[t]he EEO Officer will assist the employee ... to determine whether the issue s/he has raised is appropriate for resolution through the complaint process.” Section C of the EEO Complaint Procedural Guidelines discussed the prompt investigation of EEO complaints (which includes allegations of sexual harassment) by stating, “[b]egin investigation immediately after determining that the allegations raised, if true, are sufficient to establish a case of discrimination under the Policy, that the complaint is timely, and that the EEO Office is responsible for investigating the complaint. Complete an investigation within 90 calendar days of the filing of the complaint.”

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ The agency’s organization chart illustrated that the principal EEO Professional directly reported to the agency head for EEO matters.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

➤ The agency did not maintain documentation of the directives or decisions between the agency head and the principal EEO Professional. Corrective Action Required.

Corrective Action 4: Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

VI. RESPONSIBILITY FOR IMPLEMENTATION – MANAGERS

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

27. Ensure that managers and supervisors are held accountable for enforcing the agency’s sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

✓ The EEO Policy Statement, EEO Policy, EEO Complaint Procedural Guidelines and computer-based EEO trainings communicated the expectation that managers and supervisors were

accountable for enforcing the sexual harassment prevention policies and complaint procedures. The EEO Policy Statement directed managers and supervisors to “...make all employment decisions in accordance with this Policy and to ensure compliance in their areas of responsibility,” and stated, “[m]anagers and supervisors who receive EEO complaints must notify the EEO Officer. Managers and supervisors should also encourage individuals who believe that this policy has been violated to consult with an EEO Officer.” The aforementioned responsibility to contact the EEO Officer was also reiterated in the EEO Complaint Procedural Guidelines and EEO training.

In addition, the agency responded affirmatively to the EEPC’s preliminary interview question that managers and supervisors were directed to cooperate with an EEO professional in the implementation of EEO and sexual harassment prevention policies and procedures (including training, complaint resolutions, accommodations); consult with an EEO professional if sexual harassment is observed, communicated or suspected; encourage subordinates to consult with an EEO professional if sexual harassment is observed, communicated or suspected; allow employees to meet with an EEO professional at the earliest mutually convenient time; maintain privacy with regard to sexual harassment issues; perform responsibilities in a non-discriminatory manner; and maintain a work environment that fosters sensitivity and respect for diversity.

28. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The agency’s managerial performance evaluation form did not contain a rating for EEO to ensure that managers and supervisors were held accountable for implementing and enforcing the agency’s EEO-related expectations, directives and policies. Corrective Action Required.

Corrective Action 5: Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

VII. REPORTING STANDARD FOR AGENCY HEAD:

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

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports⁴ on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

⁴ Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.

- The agency did not provide copies of its Annual Plan of measures and programs to provide equal employment opportunity. Corrective Action Required.

Corrective Action 6: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

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

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

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

Conclusion

The agency has 6 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
9/21/2018

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 blue ink that reads "William B. Peterson". The signature is written in a cursive style and is positioned above a horizontal line.

William B. Peterson, EEO, Employment and Labor Relations Analyst

Approved by,

A handwritten signature in blue ink that reads "Charise L. Terry". The signature is written in a cursive style and is positioned above a horizontal line. To the left of the signature, there is a small blue mark that looks like a stylized "C" or "L".

Charise L. Terry, PHR
Executive Director

c: Ama Dwimoh, Principal EEO Professional

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

RESOLUTION #2018AP/223-012-(2018): Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Office of the Brooklyn Borough President's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

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

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for 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 of the Office of the Brooklyn Borough President's (BBPO) Sexual Harassment Prevention and Response Practices, the Equal Employment Practices Commission (EEOC) issued a Preliminary Determination letter, dated September 4, 2018, setting forth findings and the following required corrective actions:

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
3. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing continuing education and professional development.
4. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
5. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment

decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

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

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 issued a Final Determination on September 21, 2018 which indicated that corrective action(s) nos. 1 through 6 require compliance monitoring; and

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

Whereas, in accordance with Chapter 36, Section 832(c) of the City Charter, the agency is required to respond in 30 days and make monthly reports thereafter to the Commission on the progress of its 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 Borough President Eric Adams of the Office of the Brooklyn Borough President.

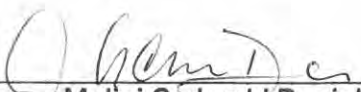
Approved unanimously on September 21, 2018.



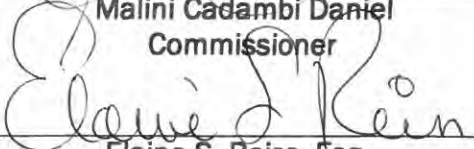
Angela Cabrera
Commissioner



Arva Rice
Commissioner



Malini Cadambi Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner



OCT 5 2018 PM 2:21

OFFICE OF THE BROOKLYN BOROUGH PRESIDENT

ERIC L. ADAMS
President
October 5, 2018

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

Re: Final response to Determination of Audit: Review, Evaluation and Monitoring of the Office of the Brooklyn Borough President's Sexual Harassment Prevention and Response Practices January 1, 2016 to December 31, 2017.

Dear Executive Director Terry:

The following will outline the corrective action taken to address all recommended matters brought to our attention.

Section 1. Issuance, Distribution and Posting of EEO Policies

1. The Borough President's cover letter distributed with the EEO Policy has been updated to include his strong commitment to supporting the prevention of sexual harassment.
2. The agency's 2018 EEO Policy now includes caregiver status and consumer credit history in its list of classes protected against employment discrimination. In addition the address to the NYC Commission on Human Rights has been updated. The 2018 EEO Policy has been distributed and is posted in our Employee On-Line Handbook.
3. The agency EEO Policy will be distributed on an annual basis.

Section 2. EEO Training for Agency

1. Our agency headcount at the time was 68 of which 66 employees were trained. Two employees were out on leave, one employee resigned and one employee returned. Our agency Deputy EEO Officer has been charged with ensuring all new hires, returning employees, interns, volunteers, and consultants will be trained.

Section 3. Complaint & Investigation Procedures

No corrective action was recommended as we were in full compliance.

Section 4. Annual Review of Practices, Policies and Programs

No corrective action was recommended as we were in full compliance.

Section 5. Responsibility for Implementation – EEO Professionals

1. The Borough President has always supported and encouraged the EEO Team to secure training related to EEO. An email from the Borough President has been sent to the EEO Team to support his message. In addition, the Borough President has promoted the Deputy EEO Officer to Co-EEO Officer and promoted one of the EEO Counselors to Deputy EEO Officer.
2. Going forward the agency will provide emails to substantiate meetings held with agency head to discuss directives and decisions made regarding the programs, policies, and procedures concerning EEO and the prevention of Sexual Harassment.

Section 6. Responsibility for Implementation – Managers

1. The Borough President meets with his management team weekly and EEO is discussed quite frequently and all managers are directed to comply with EEO policies and mandates. In addition, a google doc is maintained between the Borough President and his managers, which is utilized as a tool to monitor performance.


Section 7. Reporting Standards for Agency Head

1. The agency has prepared the attached annual EEO plan.

A memorandum from the Borough President has been prepared and distributed to all staff regarding updates resulting from this audit.

In closing, it should be noted it is unfair practice to cite our agency on items which we had no prior knowledge of being required to conduct, implement, or document. Therefore, it is the recommendation of the Office of the Brooklyn Borough President to develop a partnership with agencies, in that an official EEO Standards Guide be developed and provided to each city agency clearly outlining standards and expectations towards achieving overall full EEO compliance in accordance with all EEO laws and mandates.

Sincerely,


Eric L. Adams
Borough President


Ama Dwimoh, Co-EEO Officer


Melody Ruiz, Co-EEO Officer

[REDACTED]

From: Adams, Eric L [REDACTED]
Sent: Tuesday, March 26, 2019 2:48 PM
To: BrooklynBPEveryone
Cc: [REDACTED]
Subject: EEO Recommendations

Team,

The EEPC recently conducted an audit of our EEO Compliance and we did a great job. They recommended we implement the following to enhance our overall compliance:

1. Diversity & EEO Plan will be distributed annually
2. Our office will prepare an annual Diversity & EEO Plan
3. EEO Team will attend all EEO & Diversity Trainings
4. BP will conduct an annual review of EEO Compliance with management team

As you are aware, I am committed to ensuring we are in full compliance with all EEO laws, mandates, directives and practices.

Thank you for helping to ensure our continued compliance.

Eric



**RESOLUTION NO.
2018AP/229-012-(2019)C7
Office of the Brooklyn Borough President
Borough President Eric L. Adams
Sexual Harassment Prevention and Response Practices
DETERMINATION: COMPLIANCE**

SYNOPSIS

Corrective Action(s)	Total: 6		
Period Audit Covered	January 1, 2016 to December 31, 2017		
Preliminary Determination Issued	September 4, 2018	No Response Received	
Final Determination Issued	September 21, 2018	Response Received	October 5, 2018
Compliance-Monitoring	Required	October 1, 2018 to March 31, 2019 without extension	

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

Whereas, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

Whereas, the EEPC conducted an audit, review, and evaluation of the Office of the Brooklyn Borough President's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Office of the Brooklyn Borough President's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated September 4, 2018, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
2. Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
3. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing continuing education and professional development.
4. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
5. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
6. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

Whereas, within a two-week deadline following the EEPC's Preliminary Determination, the entity did not submit a preliminary response; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on September 21, 2018, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5 and 6; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from October 1, 2018 to March 31, 2019, to determine whether the entity eliminated areas of non-compliance, if any; and

Whereas, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), on October 5, 2018, the entity issued a response to the EEPC's Final Determination; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the Office of the Brooklyn Borough President was monitored until March 27, 2019; and

Whereas, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires

agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the Borough President submitted a copy of a memorandum to staff dated March 26, 2019, which recognized the EEPC's audit and reiterated commitment to the Office of the Brooklyn Borough President's equal employment practices; Now Therefore,

Be It Resolved, that the Office of the Brooklyn Borough President has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

Be It Resolved, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to Borough President Eric L. Adams of the Office of the Brooklyn Borough President.

Approved unanimously on April 18, 2019.



Angela Cabrera
Commissioner



Arva R. Rice
Commissioner



Malini Cadamb Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner



BY MAIL AND EMAIL

Vacant
Chair

April 18, 2019

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

Eric Adams
Borough President
Office of the Brooklyn Borough President
209 Joralemon Street
Brooklyn, NY 11201

Charise L. Terry, PHR
Executive Director

Re: Resolution #2018AP/229-012-(2019)C7
DETERMINATION: Compliance

Judith Garcia Quiñonez, Esq.
Executive Agency Counsel/
Director of Learning and Development

Dear Borough President Adams:

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

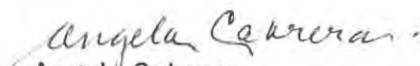
On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEPC's Board of Commissioners has approved the attached Determination.

253 Broadway
Suite 602
New York, NY 10007

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

Thank you and EEO Officers Ama Dwimoh, Esq. and Melody Ruiz for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,


Angela Cabrera
Commissioner

Enc.

C: Ama Dwimoh, Esq., Special Counsel and Chief Compliance and EEO Officer, Office of the Brooklyn Borough President
Melody Ruiz, Chief Administrative Officer & EEO Officer, Office of the Brooklyn Borough President

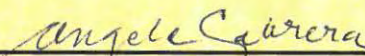
This
Determination of Compliance

is issued to the

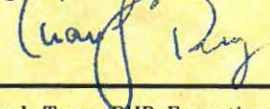
Office of the Brooklyn Borough President

for successfully implementing 6 of 6 required corrective actions pursuant to the Equal Employment Practices Commission's Sexual Harassment Prevention and Response Practices Audit from January 1, 2016 to this date.

On this 18th day of April in the year 2019,



Angela Cabrera, Commissioner



Charise L. Terry, PHR, Executive Director

In care of Borough President Eric L. Adams
and EEO Professionals Ama Dwimoh, Esq. and Melody Ruiz