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**BY MAIL AND E-MAIL**

Darcel D. Clark  
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198 East 161<sup>st</sup> Street, 9<sup>th</sup> Floor  
Bronx, NY 10451

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Bronx County District Attorney's Office's Employment Practices and Procedures from January 1, 2013 to December 31, 2015.

Dear District Attorney Clark:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the Commission's findings and preliminary determinations pursuant to our audit and analysis of your agency's Employment Practices and Procedures for the period covering January 1, 2013 to December 31, 2015.

The New York City Charter, Chapter 36, Section 831(d)(5), empowers this Commission to audit and evaluate city agencies' employment practices, programs, policies and procedures, and their efforts to ensure fair and effective equal employment opportunity for employees and applicants seeking employment with city agencies. Section 832.c provides that this Commission may, pursuant to an audit, make a preliminary determination that any plan, program or procedure utilized by any city agency does not provide equal employment opportunity and recommend all necessary and appropriate procedures, approaches, measures, standards and programs to be utilized by agencies in these efforts.

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



The purpose of this audit and analysis is to evaluate the agency's Employment Practices and Procedures, not to issue findings of discrimination pursuant to the New York City Human Rights Law. This Commission has adopted *Uniform Standards for EEPC Audits*<sup>1</sup> and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. These standards are founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; the New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); the New York State Civil Service Law §55-a; the Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7); the Americans with Disabilities Act and its Accessibility Guidelines; and the equal employment opportunity requirements of the New York City Charter. Prescribed corrective actions are consistent with the aforementioned parameters.

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

### **Scope and Methodology**

This Commission's audit methodology includes collection and analysis of the documents, records and data the agency provides in response to the *EEPC Document and Information Request Form*; responses to the *EEPC Interview Questionnaires* for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans* and *Quarterly EEO Reports* and analysis of workforce and utilization data from the *Citywide Equal Employment Database System* (CEEDS).

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

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

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



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

To encourage response, the EEPC requests that the head or deputy of each agency send emails to employees and to supervisors/managers that provide links to our questionnaires.

### Description of the Agency

Pursuant to Article 13, section 13 of the State Constitution, District Attorneys are constitutional officers elected every four years. Section 927 of the County Law imposes upon District Attorneys the duty to protect the public by investigating and prosecuting criminal conduct in the counties in which they hold office. At the end of the period in review, the agency's headcount was 854, 413 of which were in the position Assistant District Attorney (see Appendix 2).

### PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS

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

#### I. ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES:

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

1. Issue a general EEO Policy statement or memo reiterating commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO professionals, and attaching, or providing employees pertinent electronic links to, an EEO Policy/Handbook.
- ✓ The District Attorney during the period in review, issued a general EEO Policy statement in 2008, that stated the "*Office is committed to providing a work environment free of all forms of discrimination, including sexual harassment. . . . We have an active Equal Employment Opportunity (EEO) Program overseen by an office executive [the principal EEO professional] and five EEO coordinators throughout our offices to assist with staff concerns and complaints.*" The District Attorney's EEO Policy statement was stated at the beginning of mandatory online EEO training for new employees, and reiterated in the introduction to the EEO Policy. The EEO Policy provided employees with the names, titles, and contact information of their EEO professionals.
2. Distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: a policy against sexual harassment; uniform and responsive procedures for investigating discrimination complaints and providing reasonable accommodations; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for the agency's EEO professionals, as well as federal, state and local agencies that enforce laws against discrimination.

- ✓ During the period in review, the District Attorney's EEO Policy, *Equal Employment Opportunity Program with Sexual Harassment and Reasonable Accommodations Policy Statements*, was distributed to new employees in their orientation packets and was reported to have been posted to the agency's employee intranet site for access by all employees. The agency's EEO Policy included sections titled, *Policy Statement on Sexual Harassment, Policy Statement and Procedure on Reasonable Accommodations, Staff and Responsibilities, and Complaint Procedures*; and reported "[e]very actual and qualified prospective employee will be considered for recruitment, selection, hiring, assignment, transfer, training, evaluation, promotion, wages, benefits and separation without regard to the employee's gender (including gender identity), age, disability, race, national origin, sexual orientation or citizenship or alienage, prior record of arrest or conviction, genetic predisposition or carrier status, military status, marital status, or status as a victim of domestic violence, sex offense or stalking." Additionally, the EEO Policy provided employees with the names, titles, and contact information of their EEO professionals; as well as federal, state and local agencies that enforce laws against discrimination.

**NOTE:** Subsequent to the period in review, the agency's EEO Policy was posted to the intranet site accessible by all employees.

- The District Attorney's EEO Policy did not include *color, partnership status, pregnancy, caregiver status, gender (identity, expression or transgender status), or credit history* as classes protected against discrimination. Corrective Action Required.

**Corrective Action #1:** Re-distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda an up-to-date list of protected classes under NYC and NYS Human Rights Laws.

## II. EEO TRAINING FOR AGENCY:

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

3. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on unlawful discriminatory practices under local, state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.
- ✓ In 2013, 2014 and 2015, the District Attorney issued memoranda to all incoming Assistant District Attorneys that stressed EEO training was mandatory for all employees. The agency's EEO training plan consisted of *Preventing Employment Discrimination* and *Preventing Sexual Harassment* computer based training. During the period in review, 402 employees completed *Preventing Employment Discrimination* training and 276 employees completed *Preventing Sexual Harassment* training (approximately 47% and 32% of the workforce (see Appendix 2)). Additionally, an agenda from the principal EEO professional's October 2014 quarterly meeting

with Administrative Supervisors included the EEO topic *Refresher Course for 2014*, and the agency reported that EEO training was part of new employee orientation. Information on reasonable accommodation procedures was made available via the distribution of the EEO Policy (see Section I.2).

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

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

4. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
- ✓ During the period in review, the agency's analyzed the classes<sup>2</sup> for each new Assistant District Attorney, indicating *APPLICANT'S NAME, ETHNICITY, SEX, LAW SCHOOL, and RESULT*. In 2013, 2014 and 2015, the agency participated in career fairs of Seton Hall Law, Syracuse University College of Law, and Northeast Black Law Student Association to recruit law students for Assistant District Attorney positions. Additionally, the agency reported that since August 2014, it posted positions with *SUNY Geneseo (Public Info position), NYIT (Various IT Positions), The Wood Tobe Corburn School (Asst. Database Administrator), New York Business Institute (Asst. Database Administrator), New York Career Institute (Reporter/Stenographer)*; and in July 2015 it participated in the National Black Prosecutors Associations Conference & Job Fair to recruit for Assistant District Attorney positions. The agency's targeted recruitment of Black law students demonstrated an effort to address the underutilization of Blacks in the *Managers* job group which existed during the audit period (see Appendices 3 & 4).
  - The agency reported that during the period in review, it did not assess recruitment efforts for its Support Staff (all job titles except the District Attorney and the Assistant District Attorney) to determine whether such efforts adversely impacted women, minorities, or any other protected group. Corrective Action Required.

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

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

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<sup>2</sup> Assistant District Attorney hiring classes included *January 2013, September 2013, January 2014, June 2014, September 2014, March 2015, and September 2015*.

opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.

- ✓ During the period in review, the principal Human Resources professional reported directly to the principal EEO professional. In October 2015, the principal EEO professional and General Counsel met to review an EEO case, and in November 2015 the principal EEO professional and principal Human Resources professional met to review “*EEO Criteria and training.*” The agency reported that during the period in review, it received four (4) EEO complaints and all were reviewed by the principal EEO professional and General Counsel. Additionally, the agency reported that the principal EEO professional analyzed statistical information and periodically evaluated the employment practices policies and programs related to Support Staff. The agency also reported that the Executive Assistant District Attorney, in charge of legal recruitment, annually prepared a headcount of Assistant District Attorneys by ethnicity and gender on December 31.
  - The agency did not demonstrate that the principal EEO Professional, HR Professional, and General Counsel, reviewed the agency’s statistical information for Support Staff titles; or if the results of the Assistant District Attorney analyses revealed deficiencies or required corrective actions. Corrective Action Required.

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

6. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.
  - The agency reported that during the period in review, it did not assess the manner in which candidates were selected for employment to determine whether there was any adverse impact upon women, minorities, or any other protected group. The 3<sup>rd</sup> quarter FY 2013, *CEEDs Report – Work Force Compared with Internal and External Pools* (the beginning of the audit period) indicated underutilization of Blacks in two (2) job groups (*Managers and Clerical Supervisors*), Asians in four (4) job groups (*Management Specialists, Clerical Supervisors, Clerical, and Para Professionals*), and females in one (1) job group (*Management Specialists*) (see Appendix 3). The 2<sup>nd</sup> quarter FY 2016 (the last quarter of the audit period) CEEDs Report indicated underutilization of Blacks in four (4) job groups (*Managers, Management Specialists, Clerical Supervisors, and Clerical*), Asians in four (4) job groups (*Management Specialists, Clerical Supervisors, Clerical, and Para Professionals*), and females in one (1) job group (*Management*

*Specialists*) (see Appendix 4); all of which also existed during the last four (4) quarters of the period in review. Corrective Action Required.

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

7. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
  - The aforementioned job groups which indicated underutilization may have included discretionary titles (see Section III.6 and Appendices 3 & 4). Corrective Action Required.

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

8. If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with the Department of Citywide Administrative Services (DCAS) or the Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
  - The aforementioned job groups which indicated underutilization may have included *civil service* (list) titles (see Section III.6 and Appendices 3 & 4). Corrective Action Required.

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

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

✓ On December 10, 2013, twenty-one (21) of the agency's employees received "*Effective Selection and Interviewing*" training from a specialist in the field of employment practices and an instructor of professional development for Cornell University's School of Industrial and Labor Relations. The training included a powerpoint presentation, and a booklet with structured interview questions was distributed to all attendees. The agency reported that training was mandatory for all managerial staff, training materials were distributed to hiring managers, and most managers utilized the training materials to structure their interview questions. The agency also reported that it utilized interview panels for the second and third interview rounds for Assistant District Attorney positions and did not utilize interview panels for Support Staff positions.

10. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.

✓ The agency reported that it promoted employees' awareness of opportunities for promotion and transfer within the agency via its website and intranet site, which linked to open job vacancies. In August 2015, the principal EEO professional notified the Human Resources department via email of the agency's criteria for making employees permanent by selecting their names off civil service lists, as discussed in the *Administration/Support Staff Procedure Manual* that was distributed to all Support Staff during orientation.

**NOTE:** Subsequent to the period in review, the agency's intranet linked to open job vacancies, and on March 24, 2016, the agency's Human Resources newsletter provided Support Staff with information about applying to open positions and the criteria for transfer in its section titled "*Human Resources Corner*."

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

✓ In July 2015, the agency posted the following positions in print; *Senior Rackets Investigator*, *Supervising Rackets Investigator*, and *Rackets Investigator*; and in December 2015 the agency posted a *Community Engagement Coordinator* position to *Monster.com*; all of which stated "[t]he Office of the Bronx District Attorney is an Equal Opportunity Employer Committed to Diversity." Ten of the agency's job vacancy notices from the period in review, *Legal Assistant/DAT Representative*, *DAT Clerical Staff*, *Spanish Interpreter*, *Chief Technician*, *Case Aide*, *Director of Stenographic Services*, *Assistant Database Administer*, *Desktop Support Technicians*, *Video Technician*, and *Senior Technician*; all stated "[t]he Office of the Bronx District Attorney is an Equal Opportunity Employer Committed to Diversity." The agency reported that its Career Opportunities webpage provided information to applicants for the Legal Recruitment Bureau and Administrative Support Staff, and stated "[t]he Office of the Bronx District Attorney is an Equal Opportunity Employer Committed to Diversity."



12. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

- During the period in review, the agency did not use or maintain an applicant/candidate log or tracking system which, at minimum, included the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability status, veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Corrective Action Required.

**Corrective Action #7:** Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

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

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

13. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

- The agency did not employ a Career Counselor or designate a professional with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Corrective Action Required.

**Corrective Action #8:** Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

14. The Human Resources Professional distributes the identity of the agency Career Counselor and ensures that all employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; ensures that all new employees are advised of the EEO policies, their rights and responsibilities under such policies and the discrimination complaint procedures; informs the principal EEO Professional of the number of 55-a program participants and efforts the agency has made to employ, promote or accommodate qualified individuals with disabilities; involves

the principal EEO Professional in EEO-related matters; and promptly consults with the principal EEO Professional if informed of, or suspects that a violation of the EEO Policy has occurred.

- ✓ During the period in review, the Deputy Administrative Chief for Human Resources and Labor Relations, was the principal Human Resources professional. The principal Human Resources professional reported directly to the principal EEO professional, and was responsible for the administration of the performance evaluation process for Support Staff and ensuring that disciplinary matters were properly documented. The principal Human Resources professional was also the agency's 55-a program coordinator and reported no 55-a program participants. The Human Resources Department distributed the agency's EEO policy during orientation, which advised new and existing employees of their rights and responsibilities under EEO policies and the discrimination complaint procedures. Support Staff employees were notified of procedures for performance evaluation standards, examinations, and training opportunities via the *Administration/Support Staff Procedure Manual*, which was distributed and signed for during orientation; signed receipts were maintained by Human Resources. Employees were provided their tasks and standards by their supervisors to review and sign within their first week of employment; signed copies were retained by the principal EEO professional. Additionally, the agency reported that employees were aware open job vacancies could be found via the agency's website the intranet, and that other than their responsibilities as a 55-a program coordinator, the principal Human Resources professional did not have a role in the agency's efforts to employ and promote individuals with disabilities.

- The agency did not demonstrate that Assistant District Attorneys had access to performance evaluation standards or training opportunities. Corrective Action Required.

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

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

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

15. Ensure that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities.

- ✓ The agency reported that during the period in review, its EEO Policies were available in large print and audio formats. The agency also demonstrated its commitment to provide other formats via the EEPC's *Availability of EEO Policies in Alternative Formats for Employees, or Applicants for Employment, with Disabilities* form, on which the agency stated it "... is fully prepared to provide [EEO Policies] an[d] any other document in alternative format if asked."

16. Document reasonable accommodation requests and their outcomes.

- ✓ During the period in review, the agency received and documented twenty-one (21) requests for reasonable accommodation for Support Staff and Legal Staff (Assistant District Attorneys) via logs. The agency's reasonable accommodation request files included the request and the outcome – which was provided in writing to the employee/employee's supervisor. The principal EEO professional was responsible for corresponding with Support Staff and the Executive Assistant District Attorney, in charge of legal recruitment, corresponded with Legal Staff.

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

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

17. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. The principal EEO Professional is trained and knowledgeable regarding city, federal and state EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.
- ✓ In March 2006, the principal EEO professional completed the agency's *Preventing Employment Discrimination* and *Preventing Sexual Harassment* trainings. During the period in review, employees were notified of the Administrative Chief's appointment as principal EEO professional via the agency's EEO Policy and a powerpoint presentation provided to new employees during orientation. The agency reported that the principal EEO professional attended Citywide EEO Trainings in 2006 and 2009, and Cornell University's School of Industrial and Labor Relations' 2007 "*Writing Effective EEO Investigative Reports*" and 2008 "*The Law of Equal Employment Opportunity*" courses.

**NOTE:** Subsequent to the period in review, in May 2016, the District Attorney notified all employees via memorandum of a new principal EEO professional. The new principal EEO professional completed DCAS's "*Basic Training for Equal Employment Opportunity Representatives*" in May 2006.

18. Ensure that EEO professionals are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.
- ✓ During the period in review, the agency's EEO Unit consisted of the principal EEO professional and five (5) EEO coordinators. The agency had seven (7) EEO coordinators during the period in review; five (5) completed DCAS's "*Basic Training for Equal Employment Opportunity Representatives,*" and two (2) completed DCAS's "*Diversity and Equal Employment Opportunity Basic Training.*" The agency also reported that the principal EEO professional met periodically with the EEO coordinators, arranged training for them, and updated them on any policy changes.
19. The principal EEO Professional reports directly to the agency head (or an approved direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
- ✓ As reflected in the agency's organizational chart, the principal EEO professional reported directly reported to the District Attorney.

20. To ensure the integrity and continuity of the EEO Program, maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
- ✓ During the period in review, the principal EEO professional and the District Attorney met once in 2013, and twice in 2014 and 2015 to discuss EEO matters including *Support Staff Bonuses, Updated EEO Coordinators, Procedural Reminder for Staff Meetings, EEO Procedure, New [EEO] Cases, and possibly updating policy*. The agency also reported that the principal EEO professional discussed EEO matters with the District Attorney on an ongoing basis.
    - The agency did not maintain appropriate documentation regarding decisions from the aforementioned meetings that impacted the administration and operation of the EEO program. Corrective Action Required.

**Corrective Action #10:** Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

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

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

21. Establish and administer an annual managerial/non-managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training.
- ✓ During the period in review, the principal EEO professional notified Administrative Supervisors and Bureau Chiefs via memo of annual performance evaluation timelines for Support Staff employees. Evaluation packets for employees were mailed to Bureaus and Units, and were to be returned eighteen (18) days later to the principal EEO professional's Assistant for calculations of scores and attendance ratings. Full Packets were to be returned to Administrative Supervisors and Bureau Chiefs for employee meetings and signatures in less than twenty-two (22) days, and signed evaluations were due back to the principal EEO professional fifteen (15) days later. The agency maintained performance evaluation forms for Support Staff, Assistant District Attorneys, and Deputy and Supervisor's; reported that there has been 100% compliance with annual performance evaluations; and reported that completed performance evaluations were maintained in the personnel folder for each employee.
    - The agency reported performance evaluations were not administered to Senior Managers and Executive Staff. Corrective Action Required.

**Corrective Action #11:** Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

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

- The agency did not administer performance evaluations to Senior Manager and Executive Staff or provide documentation that managers were rated on their EEO responsibilities. Corrective Action Required.

**Corrective Action #12:** Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

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

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

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

- During the period in review, the agency did not submit an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan. Corrective Action Required.

**Corrective Action #13:** Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

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

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

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

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



## Conclusion

The agency has 13 required corrective action(s) at this time.

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

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

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

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

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

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

Respectfully Submitted by,

A handwritten signature in blue ink that reads "William Peterson".

William Peterson, EEO Program Analyst

Approved by,

A handwritten signature in blue ink that reads "Charise L. Terry".

Charise L. Terry, PHR  
Executive Director

c: Maria Rivero, Principal EEO Professional

## **Appendix - 1**

Bronx County District Attorney's Office  
EEO Job Group Descriptions

**DESCRIPTION OF  
CITYWIDE EQUAL EMPLOYMENT OPPORTUNITY DATABASE SYSTEM (CEEDS)  
JOB GROUP CATEGORIES**

**001 Administrators:** Occupations in which employees set broad policies and exercise overall responsibility for the execution of these policies. This category includes: elected officials, commissioners, executive directors, deputy commissioners, chairpersons, general counsels, controllers, chiefs of department, inspector generals and kindred workers.

**002 Managers:** Occupations in which employees direct individual departments or special phases of the agency's operations, or provide specialized consultation on a regional, district or area basis. This category includes: assistant commissioners, deputy directors, assistant directors, project managers, special assistants, superintendents, deputy counsels and kindred workers.

**003 Management Specialists:** Occupations which require specialized and theoretical knowledge of management, finance or personnel, which is usually acquired through college training or through work experience and other training which provides comparable knowledge. This category includes: accountants, underwriters, financial analysts, personnel analysts, staff analysts, program analysts, buyers, purchasing specialists, inspectors, research analysts, program officers, project coordinators and kindred workers.

**004 Science Professionals:** Occupations which require specialized and theoretical knowledge of various scientific or mathematical fields, which is usually acquired through college training or through work experience and other training which provides comparable knowledge. This category includes: architects, engineers (chemical, nuclear, civil, electrical, industrial, mechanical, marine), computer specialists, telecommunications specialists, actuaries, statisticians, physicists, chemists, geologists, biologists, foresters and kindred workers.

**005 Health Professionals:** Occupations which require specialized and theoretical knowledge of the medical or health fields, which is usually acquired through college training or through work experience and other training which provides comparable knowledge. This category includes: physicians, dentists, veterinarians, optometrists, podiatrists, registered nurses, pharmacists, dieticians, occupational therapists, physical therapists, speech therapists, physician's assistants and kindred workers.

**006 Social Scientists:** Occupations which require specialized and theoretical knowledge of the social sciences, which is usually acquired through college training or through work experience and other training which provides comparable knowledge. This category includes: librarians, archivists, economists, psychologists, sociologists, urban planners and kindred workers.

**007 Social Workers:** Occupations which require specialized and theoretical knowledge of social work, youth and family counseling, addiction treatment and casework, which is usually acquired through college or training or through work experience and other training which provides comparable knowledge. This category includes: caseworkers, probation officers, correctional counselors, juvenile counselors, addiction treatment counselors, eligibility specialists, human rights specialists, community liaison workers, clergy and kindred workers.

**008 Lawyers:** Occupations which require specialized and theoretical knowledge of the law and the judicial process, which is usually acquired through college training. This category includes: attorneys, assistant district attorneys, counsels, assistant counsels, deputy counsels, law judges, and kindred workers.

**009 Public Relations:** Occupations which require special knowledge or skills in public relations, journalism, modern language or the fine arts, which are usually acquired through college training, specialized post-secondary school education, or work experience or training which provides comparable knowledge. This category includes: technical writers, graphic designers, musicians, actors, directors, announcers, painters, illustrators, photographers, artists, editors, press officers, public relations specialists, public relations advisors, interpreters, customer service specialists and kindred workers.

**010 Technicians:** Occupations which require a combination of basic scientific or technical knowledge and manual skill which can be obtained through specialized post-secondary school education or through equivalent on-the-job training. This category includes: health technicians (clinical laboratory, dental hygienists, health records, radiologic



and licensed practical nurses), electrical and electronic technicians, engineering technicians (electrical, electronic, industrial, and mechanical), drafting occupations, surveying and mapping technicians, science technicians, airline pilots and navigators, air traffic controllers, broadcast equipment operators, computer programmers, legal assistants, investigators, and kindred workers.

**011 Sales:** Not applicable.

**012 Clerical Supervisors:** Occupations in which employees are responsible for overseeing and supervising the duties of clerical staff. This category includes: chief clerks, supervising clerks, principal administrative associates, supervising cashiers, telegraph superintendents, supervising stenographers and kindred workers.

**013 Clerical:** Occupations in which employees are responsible for internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. This category includes: cashiers, computer operators, word processors, secretaries, stenographers, typists, ticket agents, receptionists, clerks (information, personnel, file, library, records), bookkeepers, office machine operators, telephone operators, messengers, dispatchers, stock clerks, meter readers, office aides, general office clerks, bank tellers and kindred workers.

**014 Household Services:** Not applicable.

**015 Police Supervisors:** Occupations in which uniformed employees with peace officers status set broad policies in the area of public safety and security, exercise overall responsibility for execution of policies, direct individual units or special phases of the agency's operations, or supervise on a regional, district or area basis. This category includes: sergeants, captains, lieutenants, inspectors, captains (correction), wardens and kindred workers.

**016 Fire Supervisors:** Occupations in which uniformed employees set broad policies in the area of public safety and protection; exercise overall responsibility for execution of policies; direct individual units or special phases of the agency's operations; or supervise on a regional, district or area basis. This category includes: lieutenants, captains, battalion chiefs, deputy chiefs, supervising fire marshals, supervising fire prevention inspectors and kindred workers.

**017 Firefighters:** Occupations in which uniformed employees are entrusted with public safety, security and protection from destructive forces. This category includes: firefighters, marine engineers (uniformed), fire prevention inspectors, fire protection inspectors and kindred workers.

**018 Police and Detectives:** Occupations in which uniformed employees with peace officer status are entrusted with public safety, security and protection. This category includes: police officer, detectives, correction officers, bridge and tunnel officers, sheriffs, special officers, enforcement agents (traffic, sanitation) and kindred workers.

**019 Guards:** Occupations in which employees are entrusted with public safety and security. This category includes: school crossing guards, housing guards, watch persons, lifeguards, park rangers, school guards and kindred workers.

**020 Food Preparation:** Occupations in which employees are responsible for the preparation and distribution of food, or management of food services, in City facilities (e.g. schools, correctional institutions, and concessions). This category includes: cooks, school lunch helpers, school lunch managers, food service managers, commissary managers and kindred workers.

**021 Health Services:** Occupations in which employees are responsible for assisting health professionals in maintaining and promoting the health, hygiene and safety of the general public. This category includes: dental assistants, dietary aides, public health assistants, nurse's aides, institutional aides, health aides, orderlies, and kindred workers.

**022 Building Services:** Occupations in which employees perform duties which result in or contribute to the upkeep and care of buildings and facilities. This category includes: custodians, cleaners, caretakers, maintainers, elevator operators and starters, exterminators, pest control aides and kindred workers.

**023 Personal Services:** Occupations in which employees perform duties which result in or contribute to the comfort or convenience of the general public. This category includes: housekeepers, barbers, attendants, railroad porters, homemakers, matrons and kindred workers.

**024 Farming:** Occupations in which employees perform duties which result in or contribute to the upkeep and care of agricultural/botanical/zoological facilities or grounds of public property. This category includes: herbarium aides, aquarium technicians, botanical gardening aides, gardeners, groundskeepers, pruners, hostlers, menagerie keepers, horseshoers and kindred workers.

**025 Craft:** Occupations in which employees perform duties which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work in which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. This category includes: mechanics, equipment repairers, telephone line installers, small instrument repairers, brick masons, carpenters, electricians, plumbers, mining occupations, tool and die makers, sheet metal workers, tailors, butchers, bakers, machine operators, locksmiths, precision handworking occupations and kindred workers.

**026 Operators:** Occupations in which employees perform duties which require specialized machine skills which are required through on-the-job training and experience or through apprenticeship or other formal training programs. This category includes: printing press operators, high pressure boiler operators, laundry workers and kindred workers.

**027 Transportation:** Occupations in which employees perform duties which require motor vehicle, bus, train, or other transportation operation skills which are acquired through on-the-job training and experience or through other formal training programs. This category includes: bus drivers, chauffeurs, motor vehicle operators, trainmasters, ferry terminal supervisors and kindred workers.

**028 Laborers:** Occupations in which employees perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public, or which contribute to the upkeep and care of buildings and facilities. There are no job qualification requirements for titles in this category. This category includes: skilled craft helpers and apprentices, construction laborers, stock handlers, garage and service station related occupations, car cleaners, seasonal park helpers, track workers, assistant highway repairers and kindred workers.

**029 Sanitation Workers:** Occupations in which employees perform duties which result in or contribute to the cleanliness, hygiene and safety of the public domain. Qualification requirements, which include civil service examinations, exist for titles in this category. This category includes: sanitation workers, debris removers and kindred workers.

**030 Teachers:** Occupations which require specialized and theoretical knowledge of education and instructional methods, which is usually acquired through college training or through work experience and other training which provides comparable knowledge. This category includes: teachers, instructors, professors, lecturers, fitness instructors, graduate assistants, fellows, adjunct professors, substitute teachers, trade instructors, education/vocational counselors, education analysts, education officers, institutional instructors and kindred workers.

**031 Paraprofessionals:** Occupations in which employees perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience normally required for professional or technical status. Such positions may fall within an identified pattern of staff development and promotion. This category includes: administrative assistants, project associates, coordinators, community associates and assistants, community service aides, research associates, welfare service workers, child care workers and kindred workers.

## **Appendix - 2**

Bronx County District Attorney's Office  
Workforce Composition Summary  
2<sup>nd</sup> Quarter of Fiscal Year 2016  
(End of Audit Period)

RUN DATE: 01/05/16  
 RUN TIME: 08:37:43.5

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
 WORK FORCE COMPOSITION SUMMARY  
 AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

PAGE: 247  
 REPORT: EBEP210

QUARTER 2 YEAR 2016

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 002 MANAGERS

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			
06791	SPECIAL ASSISTANT TO THE D	0	1	1	0	0	0	1	0	0	0	0	0	0	0	3
10001	ADMINISTRATIVE ACCOUNTANT	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
10022	ADMINISTRATIVE COMMUNITY R	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
10026	ADMINISTRATIVE STAFF ANALY	0	1	0	0	0	0	1	0	0	0	0	0	0	0	2
10135	ADMINISTRATIVE CHIEF	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
12632	SPECIAL ASSISTANT TO THE D	1	0	0	0	0	0	0	0	0	0	0	1	0	0	2
30114	ASSISTANT DISTRICT ATTORNE	134	15	17	13	0	3	160	28	23	17	0	3	0	413	
30856	PRINCIPAL ACCOUNTANT INVES	0	0	2	0	0	0	1	0	0	0	0	0	0	0	3
60801	DIRECTOR OF PUBLIC INFORMA	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		136	17	20	13	0	3	164	29	24	17	0	4	0	427	
		31.86	3.98	4.68	3.04	0.00	0.70	38.41	6.79	5.62	3.98	0.00	0.94	0.00	100.00	

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 003 MANAGEMENT SPECIALISTS

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			
05322	SENIOR RACKETS INVESTIGATO	13	2	3	0	0	0	0	0	2	0	0	0	0	0	20
05323	SUPERVISING RACKETS INVEST	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
1002A	ADMINISTRATIVE STAFF ANALY	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1
1002C	ADMINISTRATIVE MANAGER NON	0	0	1	0	0	0	1	2	1	0	0	0	0	0	5
12158	PROCUREMENT ANALYST	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
12627	ASSOCIATE STAFF ANALYST	2	0	0	0	0	0	0	0	0	0	0	0	0	0	2
40510	ACCOUNTANT	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		15	2	6	0	0	0	1	2	4	1	0	0	0	31	
		48.39	6.45	19.35	0.00	0.00	0.00	3.23	6.45	12.90	3.23	0.00	0.00	0.00	100.00	

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 004 SCIENCE PROFESSIONALS

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			
13631	COMPUTER ASSOCIATE (SOFTWA	1	0	0	1	1	0	0	0	0	0	0	0	0	0	3
13641	CERTIFIED IT ADMINISTRATOR	0	1	0	1	0	0	0	0	0	0	0	0	0	0	2
13642	CERTIFIED IT ADMINISTRATOR	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1
13643	CERTIFIED IT DEVELOPER (AP	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		2	1	0	2	1	0	0	0	0	1	0	0	0	0	7
		28.56	14.29	0.00	28.57	14.29	0.00	0.00	0.00	0.00	14.29	0.00	0.00	0.00	100.00	

RUN DATE: 01/05/16  
 RUN TIME: 08:37:43.5

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
 WORK FORCE COMPOSITION SUMMARY  
 QUARTER 2 YEAR 2016 AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

PAGE: 248  
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AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 008 LAWYERS

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			
94353	DISTRICT ATTORNEY	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		0.00	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	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 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			
31013	INTERPRETER (SPANISH)	0	0	1	0	0	0	0	0	4	0	0	0	0	0	5
EEO JOB GROUP TOTAL.....:		0.00	0.00	20.00	0.00	0.00	0.00	0.00	0.00	80.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 010 TECHNICIANS

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			
30080	PARALEGAL AIDE	0	1	0	0	0	0	1	0	0	0	0	0	0	0	2
90622	MEDIA SERVICES TECHNICIAN	0	0	2	0	0	0	0	0	0	0	0	0	0	0	2
EEO JOB GROUP TOTAL.....:		0.00	25.00	50.00	0.00	0.00	0.00	25.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 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	1	0	0	0	0	0	1	2	6	0	0	0	0	0	10
EEO JOB GROUP TOTAL.....:		10.00	0.00	0.00	0.00	0.00	0.00	10.00	20.00	60.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 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		

RUN DATE: 01/05/16  
 RUN TIME: 08:37:43.5

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
 WORK FORCE COMPOSITION SUMMARY

PAGE: 249  
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QUARTER 2 YEAR 2016 AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

10202 PRIVATE SECRETARY	0	0	0	0	0	0	0	0	1	0	0	0	0	1
10212 REPORTER/STENOGRAPHER (DA)	0	0	1	0	0	0	10	3	1	0	0	0	0	15
10251 CLERICAL ASSOCIATE	2	3	4	0	0	0	1	14	19	0	0	0	0	43
10252 SECRETARY	0	0	0	0	0	0	1	5	0	0	0	0	0	6
EEO JOB GROUP TOTAL.....:	2	3	5	0	0	0	12	22	21	0	0	0	0	65
	3.07	4.62	7.69	0.00	0.00	0.00	18.46	33.85	32.31	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 015 POLICE 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		
06733	DEPUTY CHIEF RACKETS INVES	1	0	0	0	0	0	0	0	0	0	0	0	0	1
30832	SUPERVISING RACKETS INVEST	1	1	0	0	0	0	0	0	0	0	0	0	2	
30836	CHIEF RACKETS INVESTIGATOR	1	0	0	0	0	0	0	0	0	0	0	0	1	
EEO JOB GROUP TOTAL.....:		3	1	0	0	0	0	0	0	0	0	0	0	4	
		75.00	25.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 018 POLICE

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		
30830	RACKETS INVESTIGATOR	2	0	1	2	1	0	1	2	1	0	0	1	11	
70810	SPECIAL OFFICER	0	0	0	0	0	0	0	2	1	0	0	0	3	
EEO JOB GROUP TOTAL.....:		2	0	1	2	1	0	1	4	2	0	0	1	14	
		14.29	0.00	7.14	14.29	7.14	0.00	7.14	28.57	14.29	0.00	0.00	7.14	100.00	

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

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	8	8	0	0	2	3	18	17	1	0	1	58	
56056	COMMUNITY ASSISTANT	2	19	14	1	0	0	1	26	30	3	0	0	96	
56057	COMMUNITY ASSOCIATE	9	11	14	1	0	0	6	34	32	0	0	1	108	
56058	COMMUNITY COORDINATOR	2	3	1	0	0	0	1	8	9	0	0	0	24	
EEO JOB GROUP TOTAL.....:		13	41	37	2	0	2	11	86	88	4	0	2	286	
		4.53	14.34	12.94	0.70	0.00	0.70	3.85	30.07	30.77	1.40	0.00	0.70	100.00	

RUN DATE: 01/05/16  
RUN TIME: 08:37:43.5

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
WORK FORCE COMPOSITION SUMMARY  
AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

PAGE: 250  
REPORT: EBEP210

QUARTER 2 YEAR 2016

AGENCY TOTAL.....:	174	67	72	19	2	5	191	145	149	23	0	7	0	854
	20.37	7.85	8.43	2.22	0.23	0.59	22.37	16.98	17.45	2.69	0.00	0.82	0.00	100.00

## **Appendix - 3**

Bronx County District Attorney's Office  
Workforce Compared with Internal and External Pools  
3<sup>rd</sup> Quarter of Fiscal Year 2013  
(Beginning of Audit Period)



RUN DATE: 04/01/13  
 RUN TIME: 8:19:42  
 FY2013 Q3

NEW YORK CITY DEPARTMENT OF PERSONNEL  
 C E E D S S Y S T E M  
 WORK FORCE COMPARED WITH INTERNAL & EXTERNAL POOLS  
 AT THE AGENCY/JOBGROUP LEVEL

PAGE: 117  
 PROGRAM: EBPPP961  
 EXTRACT DATE: 03/30/13

AGENCY: 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO VARIABLE: ETH ETHNICITY

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: .050

JOB GROUP	INCMB TOTAL	WHITE		BLACK		HISPANIC		ASIAN /		NATIVE A		ETH UNKN	
		OBSRV	EXPCT I	OBSRV	EXPCT I	OBSRV	EXPCT I	OBSRV	EXPCT I	OBSRV	EXPCT I	OBSRV	EXPCT I
002 MANAGERS	387	282	198 O	41	81 U	38	52 N	23	32 N	1	2 N	2	23 U
003 MNGMNT SPECS	38	14	16	11	12	12	5 O	1	5 U	0	0 N	0	1 N
004 SCIENCE PROFNS	5	2	2 N	0	1 N	0	1 N	3	1 N	0	0 N	0	0 N
008 LAWYERS	1	0	1 N	1	0 N	0	0 N	0	0 N	0	0 N	0	0 N
009 PUBLIC REL	6	0	3 N	0	1 N	6	1 N	0	0 N	0	0 N	0	0 N
010 TECHNICIANS	5	1	2 N	2	2 N	2	1 N	0	0 N	0	0 N	0	0 N
012 CLERICAL SUPS	11	2	3 U	3	6 U	6	2 O	0	1 U	0	0 N	0	0 N
013 CLERICAL	76	16	17	34	37	26	12 O	0	5 U	0	0 N	0	4 N
015 POLICE SUPS	4	3	3 N	0	1 N	1	0 N	0	0 N	0	0 N	0	0 N
018 POLICE	17	5	7 U	7	5	4	4	1	1	0	0 N	0	0 N
031 PARA PROFESSION	245	22	88 U	117	70 O	98	55 O	8	20 U	0	1 N	0	9 N

RUN DATE: 04/01/13  
 RUN TIME: 8:19:42  
 FY2013 Q3

NEW YORK CITY DEPARTMENT OF PERSONNEL  
 C E E D S S Y S T E M  
 WORK FORCE COMPARED WITH INTERNAL & EXTERNAL POOLS  
 AT THE AGENCY/JOBGROUP LEVEL

PAGE: 118  
 PROGRAM: EBPPP961  
 EXTRACT DATE: 03/30/13

AGENCY: 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO VARIABLE: GEN GENDER

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: .050

JOB GROUP	INCMB TOTAL	MALE			FEMALE			GENDER U		
		OBSRV	EXPCT	I	OBSRV	EXPCT	I	OBSRV	EXPCT	I
002 MANAGERS	387	166	213	U	221	161	O	0	13	N
003 MNGMNT SPECS	38	26	22		12	16	U	0	1	N
004 SCIENCE PROFNS	5	5	3	N	0	2	N	0	0	N
008 LAWYERS	1	1	0	N	0	1	N	0	0	N
009 PUBLIC REL	6	0	3	N	6	3	N	0	0	N
010 TECHNICIANS	5	4	3	N	1	2	N	0	0	N
012 CLERICAL SUPS	11	1	2	U	10	8		0	0	N
013 CLERICAL	76	11	23	U	65	51	O	0	2	N
015 POLICE SUPS	4	3	3	N	1	1	N	0	0	N
018 POLICE	17	11	12		6	4		0	0	N
031 PARA PROFESSION	245	89	96		156	147		0	1	N

## **Appendix - 4**

Bronx County District Attorney's Office  
Workforce Compared with Internal and External Pools  
2<sup>nd</sup> Quarter of Fiscal Year 2016  
(End of Audit Period)

RUN DATE: 01/05/16  
 RUN TIME: 8:35:10  
 FY2016 Q2

NEW YORK CITY DEPARTMENT OF PERSONNEL  
 C E E D S S Y S T E M  
 WORK FORCE COMPARED WITH INTERNAL & EXTERNAL POOLS  
 AT THE AGENCY/JOBGROUP LEVEL

PAGE: 117  
 PROGRAM: EBPPP961  
 EXTRACT DATE: 12/31/15

AGENCY: 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO VARIABLE: ETH ETHNICITY

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: .050

JOB GROUP	INCMB TOTAL	WHITE			BLACK			HISPANIC			ASIAN /			NATIVE A			ETH UNKN		
		OBSRV	EXPCT	I	OBSRV	EXPCT	I	OBSRV	EXPCT	I	OBSRV	EXPCT	I	OBSRV	EXPCT	I	OBSRV	EXPCT	I
002 MANAGERS	427	300	219	O	46	81	U	44	55	N	30	43	N	0	1	N	7	17	N
003 MNGMNT SPECS	31	16	13		4	9	U	10	4	O	1	4	U	0	0	N	0	1	N
004 SCIENCE PROFNS	7	2	3	N	1	1	N	0	1	N	3	2	N	1	0	N	0	0	N
008 LAWYERS	1	0	1	N	1	0	N	0	0	N	0	0	N	0	0	N	0	0	N
009 PUBLIC REL	5	0	3	N	0	1	N	5	1	N	0	0	N	0	0	N	0	0	N
010 TECHNICIANS	4	1	1	N	1	1	N	2	1	N	0	0	N	0	0	N	0	0	N
012 CLERICAL SUPS	10	2	2		2	6	U	6	1	O	0	1	U	0	0	N	0	0	N
013 CLERICAL	65	14	12		25	35	U	26	10	O	0	5	U	0	0	N	0	3	N
015 POLICE SUPS	4	3	3	N	1	1	N	0	1	N	0	0	N	0	0	N	0	0	N
018 POLICE	14	3	6	U	4	4		3	3		2	1		1	0	O	1	0	O
031 PARA PROFESSION	286	24	93	U	127	76	O	125	70	O	6	28	U	0	1	N	4	8	N

RUN DATE: 01/05/16  
 RUN TIME: 8:35:10  
 FY2016 Q2

NEW YORK CITY DEPARTMENT OF PERSONNEL  
 C E E D S S Y S T E M  
 WORK FORCE COMPARED WITH INTERNAL & EXTERNAL POOLS  
 AT THE AGENCY/JOBGROUP LEVEL

PAGE: 118  
 PROGRAM: EBPPP961  
 EXTRACT DATE: 12/31/15

AGENCY: 902 DISTRICT ATTORNEY-BRONX COUNTY  
 EEO VARIABLE: GEN GENDER

PERSONS WITH MISSING EEO DATA INCLUDED IN CNTS  
 PROBABILITY CUT-OFF FOR IMBALANCE: .050

JOB GROUP	INCMB TOTAL	MALE			FEMALE			GENDER U		
		OBSRV	EXPCT	I	OBSRV	EXPCT	I	OBSRV	EXPCT	I
002 MANAGERS	427	189	228	U	238	180	O	0	8	N
003 MNGMNT SPECS	31	23	18		8	12	U	0	0	N
004 SCIENCE PROFNS	7	6	5	N	1	2	N	0	0	N
008 LAWYERS	1	1	0	N	0	0	N	0	0	N
009 PUBLIC REL	5	1	3	N	4	2	N	0	0	N
010 TECHNICIANS	4	3	2	N	1	1	N	0	0	N
012 CLERICAL SUPS	10	1	2	U	9	8		0	0	N
013 CLERICAL	65	10	18	U	55	44	O	0	2	N
015 POLICE SUPS	4	4	3	N	0	1	N	0	0	N
018 POLICE	14	6	10	U	8	4	O	0	0	N
031 PARA PROFESSION	286	95	109		191	166	O	0	0	N



## OFFICE OF THE DISTRICT ATTORNEY, Bronx County

DARCEL D. CLARK  
District Attorney

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Maria T. Rivero  
Executive Assistant District Attorney

June 6, 2016

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

**Re: Response to Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Bronx County District Attorney Office's Employment Practices and Procedures from January 1, 2013 to December 31, 2015**

Dear Executive Director Terry:

The Office of the District Attorney, Bronx County, would like to extend its gratitude for your efforts during the subject audit to ensure equal employment practices throughout this Office. In your letter dated May 24, 2016, the EEPC identified 13 required corrective actions.

Attached you will find materials detailing our Office's response to the corrective actions. Given the breadth and depth of materials submitted, it is our hope that this will bring our Office into compliance in all of the subject areas where corrective action was required.

Thanks again for your careful analysis and considerate guidance during the course of this audit.

Respectfully Submitted,

Maria T. Rivero  
Executive Assistant District Attorney  
Principal EEO Professional

cc William Peterson, EEO Program Analyst

## **RESPONSE TO PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS**

The following is organized by the EPPC audit subject area and corresponding corrective action.

### **ISSUANCE, DISTRIBUTION AND POSTING OF EEO POLICIES**

The Office's EEO Policy did not include *color, partnership status, pregnancy, caregiver status, gender (identity, expression or transgender status), or credit history* as classes protected against discrimination.

#### **Corrective Action #1:**

The Office's EEO Policy was revised to include the missing protected classes. The name of the EEO Officer was also updated (See Exhibit 1 - EEO Policy Program revised June 2016). The revised EEO Policy was posted on the Intranet. In addition, the revised EEO Policy was emailed to all employees (See Exhibit 2).

### **EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotions)**

The Office maintains an applicant tracking system, the Recruitment Management System (RMS), for those candidates applying for the position of Assistant District Attorney (ADA). Using RMS, we are able to generate reports to determine whether recruitment efforts adversely impacted women, minorities, or any other protected group. The Office needs to develop and use a "Voluntary Self-Identification Form" for ADA applicants to more accurately report their gender and race/ethnicity.

**Corrective Action #2 (As it applies to Assistant District Attorneys):**

During the review period, the Legal Recruitment Unit generated an internal memorandum indicating the ADAs appointed for the Classes of 2013, 2014, and 2015, which contains a breakdown by gender and race/ethnicity (See Exhibit 3 - ADAs appointed for 2013, 2014, 2015).

Using RMS, we can review the gender and ethnicity of ADA applicants in any given year. The Gender/Ethnicity Statistics for ADAs for the Class of 2013 (interviewed in fall 2012), the Class of 2014 (interviewed in fall 2013), the Class of 2015 (interviewed in fall 2014), and the Class of 2016 (interviewed in fall 2015) are attached as an addendum (See Exhibit 4 - Ethnicity Stats of ADA Classes).

By comparing Exhibits 3 and 4 above, we were able to examine the ratio of a specific gender and/or ethnicity of ADA applicants to the ratio of a specific gender and/or ethnicity of ADAs appointed for a specific year. This comparison revealed the following:

1. A total of 837 applicants applied for the Class of 2013, and 424 (51%) were men while 413 (49%) were women. In the applicant Class of 2013, 80 ADAs were appointed – 37 (46.25%) men and 43 (53.75%) women.
2. In the applicant Class of 2013, again, there were a total of 837 ADA applicants, of which, 69 identified as Black (8%), 67 (8%) as Hispanic, and 56 (7%) as Asian. The hiring resulted in 80 ADAs appointed for the Class of 2013, wherein 11 (13.75%) identified as Black, 11 (13.75%) as Hispanic, and 5 (6.25%) as Asian.



3. A total of 809 applicants applied for the Class of 2014, wherein 423 (52%) were men and 386 (48%) were women. In the applicant Class of 2014, 69 ADAs were appointed – 34 (49%) men and 35 (51%) women.
4. In the applicant Class of 2014, again, there were a total of 809 ADA applicants, of which, 67 (8%) identified as Black, 70 (9%) as Hispanic, and 55 (7%) as Asian. The hiring resulted in 69 ADAs appointed for that year, wherein 6 (8.68%) identified as Black, 3 (4.33%) as Hispanic, and 8 (11.58%) as Asian.
5. A total of 672 ADA applicants applied for the Class of 2015, wherein, 343 (51%) were men and 329 (49%) were women. In the applicant Class of 2015, 53 ADAs were appointed – 22 (42%) were men and 31 (58%) were women.
6. In the applicant Class of 2015, 63 (9%) identified as Black, 63 (9%) as Hispanic, and 44 (7%) as Asian. The hiring resulted in 53 ADAs appointed for that year, wherein 11 (20.6%) identified as Black, 7 (13.1%) as Hispanic, and 5 (9.3%) as Asian.

[\* Note: Statistics are not yet available on ADAs appointed for the Class of 2016 since final decisions have not been made on all applicants.]

Given a review of the statistical data provided above, there is no adverse impact on gender or ethnicity when comparing the pool of ADA applicants to the ADAs appointed during the review period.

Going forward, the Office will begin to use a “Voluntary Self-Identification Form” for all applicants, including ADAs (See Exhibit 5).

Recruitment sources for ADAs, some of which were indicated in prior correspondence with EEPC, include advertising on our Office website, attending informational job fairs, participating on informational panels sponsored by New York City area law schools, job postings with law school Career Services Offices throughout the country, and completing forms provided by Career Services or through “Symplicity,” a program used by most law schools for posting available legal positions.

**Corrective Action #2 (As it applies to Support Staff):**

During the review period, the Office compiled and assessed statistical information for Support Staff upon hiring employees. The plan, moving forward, is to compile information on applicants during the advertisement stage through prescreening, interviewing and eventual hire. Upon review of this data, the Office’s EEO Professional and HR Professional can determine whether our efforts adversely impact protected groups.

**Employment Practices (Recruitment, Hiring and Promotions) (cont’d)**

While the EEO professional, HR professional and General Counsel have reviewed and discussed statistical information regarding hires by race, ethnicity and gender, the Office did not document the findings of this review. As such, the EEPC’s preliminary determination declares that the Office did not demonstrate whether the EEO professional, HR professional and General Counsel reviewed the Office’s statistical information for Support Staff titles to determine if there are barriers to equal employment opportunities within the Office.

**Corrective Action #3:**

In response to the correction action required, the Office has established a new policy to have an annual review of the statistical information concerning employment practices such as hiring, promotion, layoff and/or separation. Henceforth, the annual review between the EEO Professional, the HR Professional and General Counsel will be documented. The documentation includes, but is not limited to, memorializing the meetings by sending out an email confirming the findings of the review of statistical information. Thereafter, a printed document will be filed and maintained. The Administrative Assistant to the Chief Assistant District Attorney has been tasked with responsibility of maintaining a file of the Office's statistical information along with the annual review.

As to Support Staff data, in the short term, the Office will develop spreadsheets and protocols to identify and retain applicant statistical information. The spreadsheet will contain the total workforce, hires, promotions, and separations by race/ethnicity and gender on an annual basis. The information will be reviewed by the EEO Professional and HR Professional to ensure only job related criteria were utilized. In addition, the Office will seek to procure a program similar to the Recruitment Management System that will encompass data collection for support staff and all employee applicants.

### **Employment Practices (Recruitment, Hiring and Promotions) (cont'd)**

The EEPC's review states that the Office did not maintain documentation as to its assessments of the manner in which ADA candidates were selected for employment to determine whether there was any adverse impact upon any particular gender or ethnicity. Nonetheless, the Office did review these statistics during the review period. The EEPC's preliminary review of the Office data in Appendixes 3 and 4 asserts that the Office underutilized "Black" employees within the cross section of "Managers" (Note: The "Managers" title also includes Assistant District Attorneys).

#### **Corrective Action #4:**

In contrast to the EPPC's findings, a review of the statistical data maintained by this Office indicates that there was no adverse impact upon those employees identifying as "Black" within the cross section of "Managers." As shown in Exhibits 3 and 4, the percentage of Black ADAs hired (13.1%) in 2015 is greater than the percentage of Black candidates (9%) in 2015 who applied for the position. Accordingly, the Office believes its data supports the position that there is no adverse impact upon "Black" applicants. Moreover, a review of the ADA selection criteria (3.0 GPA, Moot Court, Mock Trials, Internships, and Clinics) previously provided to the EEPC amply demonstrates the Office's selection criteria for ADA applicants remains job-related.

**Employment Practices (Recruitment, Hiring and Promotions) (cont'd)**

The EEPC's preliminary determination indicated underutilization of minorities in discretionary titles. Corrective Action #5 concludes, in essence, that the Office should increase its recruiting efforts to attract women, minorities and other protected groups who are underrepresented in discretionary titles. The EEPC review also found that underutilization may have included civil service positions.

**Corrective Action #5:**

In recruiting applicants for the position of Assistant District Attorney, the Office advertises in and utilizes various sources including, but not limited to, the following: the Office website, informational job fairs (e.g., the Lavender Career Fair and the Public Interest Career Fair for NYC area law students), panels discussions in NYC law schools on "How to be a Prosecutor," minority job fairs (e.g., the National Black Prosecutors Association Job Fair, the Northeast Black Law Students Association Job Fair, and the Philadelphia Area Diversity Job Fair), and interviews yearly on the campus of Howard University School of Law (Historically Black University).

Going forward, to bolster the current efforts to attract qualified minority applicants, the Office plans to reach out to the minority organizations of NYC area law schools and the various minority bar associations to provide information on applying to the Office.

**Corrective Action #6:**

The Office utilizes the following sources to attract applicants for the titles of Community Service Aides, Community Assistant, Community Associate, and Community Coordinator: the Office-wide Intranet, the Office website on the Internet, NYC school job fairs, and career service offices.

Civil services applicants are obtained by reviewing the lists of candidates who passed the requisite examinations. The lists are provided by City organizations (e.g., DCAS). The Office relies upon examination results for the recruitment of titles such as Clerical Associate, Principal Administrator, Administrative Associate, Staff Analyst, and Administrative Staff Analyst.

**Employment Practices (Recruitment, Hiring and Promotions) (cont'd)**

The EPPC determined that the Office did not use or maintain an applicant/candidate log or tracking system, including at a minimum, the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability status, veteran status, interview date, interviewers' names, results, reason selected/not selected (or disposition) of each applicant, and recruitment source*. The responsibility for recording and maintaining applicant information must be delegated to an individual other than the hiring manager.

**Corrective Action #7 (As it applies to Assistant District Attorneys):**

The Office has a tracking system in place – The Recruitment Management System – for candidates applying for an Assistant District Attorney (ADA) position. The Recruitment Management System (RMS) tracks the following information: applicants’/candidates’ names, id number, ethnicity, gender, disability status [added on 6/2/2016], veteran status [added on 6/2/2016], interview date, interviewers’ names, results, disposition of applicant, and recruitment source (See Exhibits 6 to 9, which include samples of applicant data recorded in 2012 for the Class of 2013, applicant data recorded in 2013 for the Class of 2014, applicant data recorded in 2014 for the Class of 2015, and applicant data recorded in 2015 for the Class of 2016).

Again, please note that the majority of ADAs are interviewed in the fall of a given year for positions beginning in the subsequent year and are considered part of a “recruitment class.”

The recording/maintaining of applicant information is delegated to the administrative assistants assigned to the Legal Recruitment Bureau. It is their responsibility to enter applicant information into RMS, update interview information on an on-going basis, and type their initials on the “Comments Screen” of RMS as they update any information. Final hiring decisions are made by the District Attorney.

Recruitment sources, as indicated in prior correspondence with EEPC, include advertising on the Office website, attending informational job fairs, participating on informational panels sponsored by New York City area law schools, and job postings with law school Career Services Offices throughout the country.

**Corrective Action #7 (As it applies to Support Staff):**

As stated previously, the Human Resources Department will develop spreadsheets and protocols to identify and retain applicant statistical information for support staff positions. The spreadsheet will contain the total workforce, hires, promotions, and separations by race/ethnicity and gender on an annual basis. The information will be reviewed by the EEO Professional and HR Professional to ensure only job related criteria were utilized and to assess whether there are any protected groups that are adversely impacted.

**CAREER COUNSELING**

While there are many informal opportunities for career counseling, the Office did not formally designate a career counseling professional during the period of review. The EEPC's Corrective Action requires the Office to remind employees of the identity/type of guidance available from the career counseling professional at least once a year. Additionally, the Office did not demonstrate that Assistant District Attorneys (ADAs) had access to performance evaluation standards or training opportunities. Thus, the EEPC required this Office to ensure that all employees have access to performance evaluation standards and training opportunities.

**Corrective Action #8 (As it applies to Assistant District Attorneys):**

The Office has formally designated each Bureau Chief as Career Counselor to the ADAs under their direct supervision. ADAs may also seek guidance from other Bureau Chiefs if they feel more comfortable in doing so. Bureau Chiefs possess the requisite knowledge, skills, and



experience to appropriately advise ADAs as to prosecutorial career opportunities. Each year, the Office will send out an email identifying each Bureau Chief, explaining the Chief's expertise, and noting that counseling is available upon request.

**Corrective Action #9 (As it applies to Assistant District Attorneys):**

**ADA Access to Performance Evaluations**

The District Attorney will email all ADAs a Memorandum containing ADA performance evaluation standards (See Exhibit 10).

**ADA Access to Training Opportunities**

The Office's Litigation Training Unit provides training and continuing legal education (CLE's) for newly recruited and experienced ADAs. The training consists of the following: Core Office Training Programs, Other Office Training Programs, and External Training Programs (See Exhibit 11 - Office website Litigation Training Section outlining the various training programs).

The Core Office Training Programs are given at various times throughout the year. ADAs are notified by their respective bureaus chiefs as to when trainings are scheduled.

Special Topic Training Programs are given throughout the year. ADAs are notified of these programs by email (See Exhibit 12 - Sample Training Program Announcements for 2013, 2014, and 2015).

The Bronx District Attorney's Office is a New York State CLE Accredited Provider (See Exhibit 13 - List of Programs/Course given during 2013, 2014, and 2015).

**Corrective Action #8 & #9 (As it applies to Support Staff):**

Support Staff will receive notification of the performance standards during evaluations. Further, the Office has appointed a staff member with the requisite, skill, knowledge, and experience to lead as the Director of Support Staff Training.

**RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION –**

**EEO PROFESSIONALS**

The Office will continue its practice of regular meetings between the EEO Professional and the District Attorney to discuss EEO matters. However, during the period in review, it was determined that the Office did not document the decisions made in meetings where, for example, support staff bonuses, EEO procedures, EEO cases, and EEO policy updates were decided.

**Corrective Action #10:**

As a result of the EEOC's preliminary determination, the Office has established a new policy to document meetings between the District Attorney and the EEO Professional where decisions are made that impact the administration of the EEO Program. The documentation includes, but is not limited to, memorializing the meetings by sending out an email confirming the decisions made with respect to EEO matters, and filing a printed document which dates and

identifies the EEO decisions. The Administrative Assistant to the Chief Assistant District Attorney has been tasked with the responsibility of maintaining the file containing the EEO decisions upon the submission of notes or a memo from the District Attorney or the EEO Professional.

### **RESPONSIBILITY FOR EEO PLAN IMPLEMENTATION –**

#### **SUPERVISORS/MANAGERS:**

The Office reported that performance evaluations were not administered to Senior Managers and Executive Staff. As a result, Corrective Actions articulated that the Office should (1) establish and implement an annual managerial performance evaluation program to be used for probationary periods, promotions, assignments, incentives and training; (2) administer performance evaluations to Senior Managers and Executive Staff; and (3) include a rating on those performance evaluations for EEO compliance.

#### **Corrective Actions #11 and #12 (As it applies to Assistant District Attorneys):**

As a result of EEPC's preliminary determination, the Office has established a performance evaluation form for Executives and Chiefs (See Exhibit 14). The performance evaluation forms for Executives, Chiefs, Deputies and Supervisors now contains a rating category on EEO performance (See Exhibits 14 and 15). Performance evaluations for Assistant District Attorneys (ADAs) in supervisory positions (e.g., Executives, Chiefs, Deputies, and Supervisors) will be administered annually (July of each year), and will be completed by their immediate supervisor.

Going forward, the performance evaluation forms for Chiefs, Deputies, and Supervisors will be forwarded by the Chief Assistant and/or Chief of Staff by e-mail to the Chief's, Deputy's, and Supervisor's immediate supervisor for completion. Performance evaluation forms for the Executive Staff will be forwarded by the District Attorney's Administrative Assistant by e-mail to the Chief Assistant and/or Chief of Staff, and to the District Attorney, where applicable, for completion.

As has been the practice for ADAs in non-supervisory positions, a supervisory ADA will have the opportunity to review and discuss his/her performance evaluation with his/her immediate supervisor, and rebut any area he/she deems necessary.

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

The EEPC determined that the Office did not submit an "Action Plan" of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the plan.

#### **Corrective Actions #13:**

In Exhibit 16, the Office has submitted its Action Plan of measures and programs to provide equal employment opportunity, noting its efforts to report and implement the plan.



**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/  
Deputy Director

**Marie E. Giraud, Esq.**  
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## BY MAIL AND EMAIL

June 16, 2016

Darcel D. Clark  
District Attorney  
Office of the Bronx County District Attorney  
198 East 161st Street, 9th Floor  
Bronx, NY 10451

RE: Audit Resolution #: **2016/902**: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of the Bronx County District Attorney's Employment Practices and Procedures from January 1, 2013 to December 31, 2015.

Dear District Attorney Clark:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your June 6, 2016 response to our May 24, 2016 Preliminary Determination and for the cooperation extended to our staff during the course of this audit.

As indicated in our Preliminary Determination, this Commission has adopted uniform standards<sup>1</sup> to assess agencies' employment practices and programs for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for municipal government employees and job applicants. The attached Determination contains the Commission's findings and required corrective actions pertaining to the referenced review, evaluation and monitoring of your agency's employment practices and procedures.

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

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<sup>1</sup> Founded upon and consistent with federal, state and local laws, regulations, procedures and policies including, but not limited to, the Citywide Equal Employment Opportunity Policy - Standards and Procedures to be Utilized by City Agencies; New York City Human Rights Law (NYC Administrative Code, §§8-107.1(a) and 8-107.13(d)); New York State Civil Service Law §55-a; Uniform Guidelines on Employee Selection Procedures (29 CFR §§1607.3 - 1607.7) and the equal employment opportunity requirements of the New York City Charter.



The assigned compliance-monitoring period is: July 2016 to December 2016.

**If corrective actions remain:** Your agency's response should indicate (with attached documentation) what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Thereafter, your agency will be monitored monthly until all corrective actions have been implemented. Compliance-monitoring instructions will be provided. Upon your agency's completion of the final corrective action, 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. Once received, a *Determination of Compliance* will be issued.

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

If there are further questions regarding this Final Determination or the compliance-monitoring process, please have the Principal EEO Professional call Marie E. Giraud, Esq., Agency Attorney/Director of Compliance Monitoring at 212-615-8942.

Thank you and your staff for your continued cooperation.

A handwritten signature in blue ink that reads "Judith Garcia Quiñones". Below the signature is a small, stylized mark that appears to be "for".

c: Maria Rivero, Principal EEO Professional

**FINAL DETERMINATION**

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

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

After reviewing the agency's optional response (if applicable) to the EEPC's preliminary Determination, our Final Determination is as follows:

**Agree**

Regarding your responses<sup>2</sup> to the following EEPC required corrective actions, we Agree based on documentation that is attached to your response.

**Corrective Action #1:** Re-distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda an up-to-date list of protected classes under NYC and NYS Human Rights Laws.

**Agency Response:** *“The Office's EEO Policy was revised to include the missing protected classes. The name of the EEO Officer was also updated ... The revised EEO Policy was posted on the Intranet. In addition, the revised EEO Policy was emailed to all employees ...”* (Response, Pg. 1.)

**EEPC Response:** The EEPC accepts the agency's efforts and attached documentation that corrective action **#1** has been implemented. The agency's EEO Policy was revised to include an up-to-date list of protected classes under NYC and NYS Human Rights Laws and redistributed to all employees by the principal EEO professional via email on June 3, 2016.

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

**Agency Response:** *“The District Attorney will email all ADAs a Memorandum containing ADA performance evaluation standards ... The Office's Litigation Training Unit provides training and continuing legal education (CLE's) for newly recruited and experienced ADAs. The training consists of the following: Core Office Training Programs, Other Office Training Programs, and External Training Programs ... The Core Office Training Programs are given at various times throughout the year. ADAs are notified by their respective bureaus chiefs as to when trainings are*

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<sup>2</sup> Excerpts are italicized.

*scheduled. Special Topic Training Programs are given throughout the year. ADAs are notified of these programs by email ...” (Response, Pg. 11.)*

EEPC Response: The EEPC accepts the agency's efforts and attached documentation that corrective action **#9** has been implemented. The District Attorney notified Assistant District Attorneys of performance evaluation standards via memorandum on June 3, 2016. The agency also demonstrated that during the audit period, Assistant District Attorneys were notified of training opportunities (continuing legal education) via the agency's website and memoranda from the Chief of Litigation Training. The agency previously demonstrated that Support Staff employees (all titles other than Assistant District Attorney) were notified of procedures for performance evaluation standards and training opportunities via the *Administration/Support Staff Procedure Manual*, which was distributed and signed for during orientation.

Corrective Action #12: Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Agency Response: “... [T]he Office has established a performance evaluation form for Executives and Chiefs ... The performance evaluation forms for Executives, Chiefs, Deputies and Supervisors now contains a rating category on EEO performance ...” (Response, Pg. 13.)

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#12**. The agency provided a managerial performance evaluation form which contained a rating for EEO.

Corrective Action #13: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

Agency Response: “... [T]he Office has submitted its Action Plan of measures and programs to provide equal employment opportunity, noting its efforts to report and implement the plan.” (Response, Pg. 14.)

EEPC Response: The EEPC accepts the agency's efforts and attached documentation that corrective action **#13** has been implemented. The agency submitted its *Equal Employment Opportunity Action Plan* of measures and programs to provide equal employment opportunity, for January 2016 to December 2016. The EEPC looks forward to the agency's submission of future annual plans and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.



### **Monitoring Required**

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance monitoring period.

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

**Agency Response:** *"During the review period, the Legal Recruitment Unit generated an internal memorandum indicating the ADAs appointed for the Classes of 2013, 2014, and 2015, which contains a breakdown by gender and race/ethnicity ... Using RMS [Recruitment Management System], we can review the gender and ethnicity of ADA applicants in any given year ... [W]e were able to examine the ratio of a specific gender and/or ethnicity of ADA applicants to the ratio of a specific gender and/or ethnicity of ADAs appointed for a specific year ... Given a review of the statistical data provided above, there is no adverse impact on gender or ethnicity when comparing the pool of ADA applicants to the ADAs appointed during the review period ... During the review period, the Office compiled and assessed statistical information for Support Staff upon hiring employees. The plan, moving forward, is to compile information on applicants during the advertisement stage through prescreening, interviewing and eventual hire. Upon review of this data, the Office's EEO Professional and HR Professional can determine whether our efforts adversely impact protected groups."* (Response, Pgs. 2, 3 and 4.)

**EEPC Response:** The EEPC recognizes the agency's efforts to implement corrective action #2 for the Assistant District Attorney title in the *Managers* job group. An agency assessment of its recruitment efforts for job groups with underrepresentation will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

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

**Agency Response:** *"... [T]he Office has established a new policy to have an annual review of the statistical information concerning employment practices such as hiring, promotion, layoff and/or separation. Henceforth, the annual review between the EEO Professional, the HR Professional and General Counsel will be documented. The documentation includes, but is not limited to, memorializing the meetings by sending out an email confirming the findings of the review of statistical information. Thereafter, a printed document will be filed and maintained. The*

*Administrative Assistant to the Chief Assistant District Attorney has been tasked with responsibility of maintaining a file of the Office's statistical information along with the annual review. As to Support Staff data, in the short term, the Office will develop spreadsheets and protocols to identify and retain applicant statistical information. The spreadsheet will contain the total workforce, hires, promotions, and separations by race/ethnicity and gender on an annual basis. The information will be reviewed by the EEO Professional and HR Professional to ensure only job related criteria were utilized. In addition, the Office will seek to procure a program similar to the Recruitment Management System that will encompass data collection for support staff and all employee applicants." (Response, Pg. 5.)*

**EEPC Response:** The EEPC recognizes the agency's efforts to implement corrective action #3. A review of statistical information, the annual number of EEO complaints, and the agency's employment practices, policies and programs will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

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

**Agency Response:** "... [A] review of the statistical data maintained by this Office indicates that there was no adverse impact upon those employees identifying as "Black" within the cross section of "Managers." ... [T]he percentage of Black ADAs hired (13.1 %) in 2015 is greater than the percentage of Black candidates (9%) in 2015 who applied for the position. Accordingly, the Office believes its data supports the position that there is no adverse impact upon "Black" applicants. Moreover, a review of the ADA selection criteria (3.0 GPA, Moot Court, Mock Trials, Internships, and Clinics) previously provided to the EEPC amply demonstrates the Office's selection criteria for ADA applicants remains job related." (Response, Pg. 6.)

**EEPC Response:** An agency assessment of its selection criteria for job groups with underrepresentation will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

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

**Agency Response:** "The EEPC's preliminary determination indicated ... that the Office should increase its recruiting efforts to attract women, minorities and other protected groups who are underrepresented in discretionary titles ... In recruiting applicants for the position of Assistant District Attorney, the Office advertises in and utilizes various sources ... Going forward, to bolster

*the current efforts to attract qualified minority applicants, the Office plans to reach out to the minority organizations of NYC area law schools and the various minority bar associations to provide information on applying to the Office.” (Response, Pg. 7.)*

**EEPC Response:** The EEPC recognizes the agency’s efforts to implement corrective action #5. Documentation of the agency’s efforts to develop and hire interested and qualified women, minorities, and candidates from other protected groups into discretionary titles with underrepresentation, will be reviewed during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

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

**Agency Response:** *“The EEPC’s preliminary determination indicated ... that underutilization may have included civil service positions ... Civil services applicants are obtained by reviewing the lists of candidates who passed the requisite examinations. The lists are provided by City organizations (e.g., DCAS). The Office relies upon examination results for the recruitment of titles such as Clerical Associate, Principal Administrator, Administrative Associate, Staff Analyst, and Administrative Staff Analyst.” (Response, Pgs. 7 and 8.)*

**EEPC Response:** The EEPC recognizes the agency’s response to address corrective action #6. Documentation of the agency’s efforts to address underrepresentation of protected groups in *civil service* (list) titles will be reviewed during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

**Corrective Action #7:** Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants’/candidates’ names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers’ names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.

**Agency Response:** *“The Office has a tracking system in place—[t]he Recruitment Management System—for candidates applying for an Assistant District Attorney (ADA) position. The Recruitment Management System (RMS) tracks the following information: applicants’/candidates’ names, id number, ethnicity, gender, disability status [added on June 2, 2016], veteran status [added on June 2, 2016], interview date, interviewers’ names, results, disposition of applicant, and recruitment source ... The recording/maintaining of applicant information is delegated to the administrative assistants assigned to the Legal Recruitment Bureau ... [T]he Human Resources*

*Department will develop spreadsheets and protocols to identify and retain applicant statistical information for support staff positions.” (Response Pgs. 9 and 10.) “... [T]he Office will seek to procure a program similar to the Recruitment Management System that will encompass data collection for support staff and all employee applicants.” (Response Pg. 5.)*

**EEPC Response:** The EEPC recognizes the agency’s efforts to implement corrective action #7 for applicants to the Assistant District Attorney title. Documentation which confirms use of the applicant tracking system for applicants, including for Support Staff titles, and assigning responsibilities for collection of the application to someone other than the hiring manager will be required during the compliance-monitoring period. Implementation of this corrective action will be monitored during the compliance-monitoring period.

**Corrective Action #8:** Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.

**Agency Response:** *“The Office has formally designated each Bureau Chief as Career Counselor to the ADAs under their direct supervision. ADAs may also seek guidance from other Bureau Chiefs if they feel more comfortable in doing so. Bureau Chiefs possess the requisite knowledge, skills, and experience to appropriately advise ADAs as to prosecutorial career opportunities. Each year, the Office will send out an email identifying each Bureau Chief, explaining the Chiefs expertise, and noting that counseling is available upon request ... [T]he Office has appointed a staff member with the requisite, skill, knowledge, and experience to lead as the Director of Support Staff Training.” (Response Pgs. 10, 11 and 12.)*

**EEPC Response:** The EEPC recognizes the agency's efforts to address corrective action #8. Documentation that demonstrates employees were notified of the identities and type of guidance available from the Career Counselors will be required during the compliance-monitoring period.

**Corrective Action #10:** Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.

**Agency Response:** *“... [T]he Office has established a new policy to document meetings between the District Attorney and the EEO Professional where decisions are made that impact the administration of the EEO Program. The documentation includes, but is not limited to, memorializing the meetings by sending out an email confirming the decisions made with respect to EEO matters, and filing a printed document which dates and identifies the EEO decisions. The Administrative Assistant to the Chief Assistant District Attorney has been tasked with the responsibility of maintaining the file containing the EEO decisions upon the submission of notes or a memo from the District Attorney or the EEO Professional.” (Response Pgs. 12 and 13.)*

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#10**. Appropriate documentation of meetings between the principal EEO professional and the agency head (or a direct report other than the General Counsel), with regard to decisions impacting the administration and operation of the EEO program, if any, will be required during the compliance-monitoring period.

Corrective Action #11: Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.

Agency Response: "... [T]he Office has established a performance evaluation form for Executives and Chiefs ... Performance evaluations for Assistant District Attorneys (ADAs) in supervisory positions (e.g., Executives, Chiefs, Deputies, and Supervisors) will be administered annually (July of each year), and will be completed by their immediate supervisor. Going forward, the performance evaluation forms for Chiefs, Deputies, and Supervisors will be forwarded by the Chief Assistant and/or Chief of Staff by e-mail to the Chiefs, Deputy's, and Supervisor's immediate supervisor for completion. Performance evaluation forms for the Executive Staff will be forwarded by the District Attorney's Administrative Assistant by e-mail to the Chief Assistant and/or Chief of Staff, and to the District Attorney, where applicable, for completion." (Response Pgs. 13 and 14.)

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#11**. Documentation that demonstrates the agency's establishment and implementation of annual managerial/non-managerial performance evaluations with timetable will be required during the compliance-monitoring period.

Thank you and your staff for your continued cooperation.

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

**RESOLUTION # 2016/902:** Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Office of the Bronx County District Attorney's Employment Practices and Procedures from January 1, 2013 through December 31, 2015.

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

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

**Whereas**, pursuant to its audit of the Office of the Bronx County District Attorney's (BCDA) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated May 24, 2016, setting forth findings and the following required corrective actions:

1. Re-distribute/Post a paper or electronic copy of the *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies* – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda an up-to-date list of protected classes under NYC and NYS Human Rights Laws.
2. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
3. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender) and the agency's employment practices on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
4. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or

gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

5. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. If women, minorities, or other protected groups are underrepresented in *civil service* (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable). Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
7. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the *position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition)* of each applicant, and *recruitment source*. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
8. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
9. Ensure that all employees have access to information regarding performance evaluation standards, and training opportunities.
10. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
11. Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
12. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make

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

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

**Whereas**, the agency submitted its response to the EEPC's Preliminary Determination letter, on June 6, 2016; and with documentation of its actions to rectify required corrective action nos. 1, 9, 12 and 13; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on June 16, 2016 which agreed and indicated that corrective action(s) nos., 2, 3, 4, 5, 6, 7, 8, 10 and 11 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 July 2016 through December 2016, to determine whether it implemented remaining required corrective actions; and

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

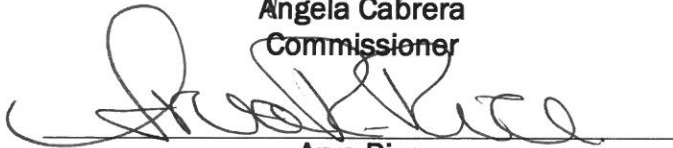
**Whereas**, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection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

**Be It Resolved**, that the Commission will forward this Final Determination to District Attorney Darcel D. Clark, of the Office of the Bronx County District Attorney.

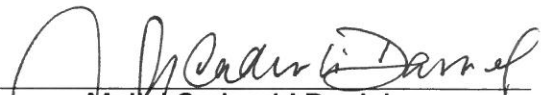
Approved unanimously on June 16, 2016.



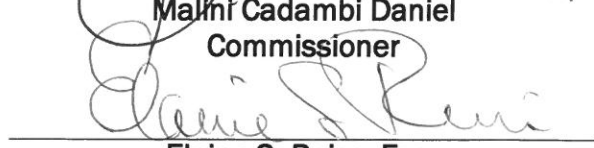
Angela Cabrera  
Commissioner



Arva Rice  
Commissioner



Malini Cadambi Daniel  
Commissioner



Elaine S. Reiss, Esq.  
Commissioner





THE DISTRICT ATTORNEY  
BRONX COUNTY

DARCEL D. CLARK

July 18, 2016

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

**Re: Audit Resolution #2016/902 - Response to Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of the Bronx County District Attorney's Employment Practices and Procedures from January 1, 2013 to December 31, 2015**

Dear Executive Director Terry:

I appreciate the opportunity to respond to the Equal Employment Practices Commission's ("EEPC") Audit Resolution of the Office of the Bronx County District Attorney ("BXDA"). I would like to extend my gratitude for your efforts during this audit.

The BXDA's Office is strongly committed to maintaining fair and effective employment practices for all employees and applicants.

In your letter dated June 16, 2016, the EEPC agreed with the BXDA's responses to Corrective Actions #1, #9, #12, and #13. However, the EEPC determined that monitoring was required for Corrective Actions #2, #3, #4, #5, #6, #7, #8, #10, and #11.

I have attached the BXDA's response to those actions requiring monitoring. We look forward to working with the EEPC during the compliance monitoring period to eliminate remaining required corrective actions.

Thank you again for your careful analysis and considerate guidance during the course of this audit.

Respectfully Submitted,

Darcel D. Clark  
District Attorney

cc William Peterson, EEO Program Analyst

**The Bronx County District Attorney's Office**

**Corrective Actions Requiring Monitoring**

The EEPC determined that compliance-monitoring was required in the following corrective actions. Our Office acknowledges and accepts all of the corrective actions and will work to implement them with the EEPC's guidance during the July 2016 to December 2016 monitoring period.

**Corrective Action #2:** The EEPC determined our Office will need to assess our recruitment efforts for job groups with underrepresentation during the compliance-monitoring period to determine whether our efforts adversely impact protected groups.

Corrective Action #2 is acknowledged and accepted. The Bronx County District Attorney's Office will assess recruitment efforts for job groups with underrepresentation.

**Corrective Action #3:** The EEPC determined that a review of statistical information, the annual number of EEO complaints, and our Office's employment practices, policies and programs will be required during the compliance-monitoring period.

Corrective Actions #3 is acknowledged and accepted. The Bronx County District Attorney's Office will review statistical information, the annual number of EEO complaints, and our Office's employment practices, policies and programs.

**Corrective Action #4:** The EEPC determined that our Office will need to assess its selection criteria for job groups with underrepresentation during the compliance-monitoring period.

Corrective Action #4 is acknowledged and accepted. The Bronx County District Attorney's Office will assess the selection criteria for job groups with underrepresentation.

**Corrective Action #5:** The EEPC determined that our Office needed to increase its recruiting efforts to attract women, minorities, and other protected underrepresented groups.

Corrective Action #5 is acknowledged and accepted. The Bronx County District Attorney's Office will maintain documentation on our efforts to develop and hire interested and qualified women, minorities, and candidates from other protected groups into discretionary titles with underrepresentation.

**Corrective Action #6:** The EEPC determined that our Office is required to maintain documentation of our efforts to address underrepresentation of protected groups in civil service titles.

Corrective Action #6 is acknowledged and accepted. The Bronx County District Attorney's Office will maintain documentation on our efforts to address underrepresentation of protected groups in *civil service* (list) titles.

**Corrective Action #7:** The EEPC determined that it would monitor our Office's applicant/candidate log or tracking system for both Assistant District Attorneys and Support Staff during the compliance-monitoring period.

Corrective Action #7 is acknowledged and accepted. The Bronx County District Attorney's Office will maintain documentation on the use of an applicant tracking system for all applicants, including for Support Staff titles, and will assign responsibilities for the collection of the application to someone other than the hiring manager.

**Corrective Action #8:** The EEPC will require documentation during the compliance-monitoring period that demonstrates employees were notified of the identities and type of guidance available from the Career Counselors.

Corrective Action #8 is acknowledged and accepted. The Bronx County District Attorney's Office will maintain documentation that employees were notified of the identities and type of guidance available from the Career Counselors.

**Corrective Action #10:** The EEPC determined that appropriate documentation of meetings between the principal EEO Professional and the Agency Head regarding decisions impacting the administration and operation of the EEO Program was required.


Corrective Action #10 is acknowledged and accepted. The Bronx County District Attorney's Office will maintain documentation of meetings between the principal EEO Professional and the District Attorney (or a direct report other than the General Counsel), with regard to decisions impacting the administration and operation of the EEO Program.

**Corrective Action #11:** The EEPC determined that documentation demonstrating our Office's establishment and implementation of annual managerial/non-managerial performance evaluations with timetable was required.

Corrective Action #11 is acknowledged and accepted. The Bronx County District Attorney's Office will maintain documentation that demonstrates our Office's establishment and implementation of annual managerial/non-managerial performance evaluation program (with timetable).

# DISTRICT ATTORNEY - BRONX COUNTY

## MEMORANDUM

**TO:** All Staff  
**FROM:** Robert T. Johnson   
**SUBJECT:** EEO Practices Commission Audit  
**DATE:** July 25, 2012

Recently, the Equal Employment Practices Commission (EEPC) completed an audit of our office's compliance with the City's Equal Employment Policy for the period of July 1, 2007 through June 30, 2010.

Following this audit, we were asked to implement some minor changes to our EEO plan upon EEPC's recommendations. I am pleased to report that we are now in full compliance with the audit recommendations. You should know that:

- In the event of an EEO Complaint Investigation, all parties involved will be notified in writing of the outcome of the complaint.
- All of our employment recruitment literature indicates that the Office of the Bronx District Attorney is an equal opportunity employer.
- Our office organization chart reflects the reporting relationship of the EEO Administrator to the District Attorney. And, EEO meetings between the Administrator and the District Attorney are being documented.
- The people responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies pertaining to persons with disabilities are:

For Legal Staff: Maria Rivero  
Administrative Assistant DA  
Concourse Plaza Building, Room 914  
718-590-2258

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

**RESOLUTION #2016AP/902C-21:** Determination of **Compliance** (Monitoring Period Required) by the Office of the Bronx County District Attorney with the Equal Employment Practices Commission's required corrective actions pursuant to the Review, Evaluation and Monitoring of the agency's Employment Practices and Procedures from January 1, 2013 through December 31, 2015.

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

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

**Whereas**, pursuant to its audit and analysis of the Office of the Bronx County District Attorney's (BCDA) Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated May 24, 2016, setting forth findings and the following required corrective actions:

1. Re-distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency EEO Policy that conforms to city, state and federal laws – for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda an up-to-date list of protected classes under NYC and NYS Human Rights Laws.
2. Assess recruitment efforts to determine whether such efforts adversely impact any particular group. To the extent that adverse impact is discovered, at a minimum, identify relevant professional and community organizations serving women, minorities, and other protected groups throughout the City, review and update listings of recruitment outreach sources, and contact these organizations when provisional positions become available or where the agency may otherwise use discretion in hiring.
3. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's statistical information (i.e. workforce, hires, promotions, and separations by race/ethnicity and gender) and the agency's employment practices on an annual basis to identify whether there are barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies (e.g. underutilization or adverse impact). If necessary, consult with the Law Department, Division of Citywide Diversity and EEO, or another resource for guidance.
4. Assess the manner in which candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group. To the extent that adverse impact is discovered, determine whether the selection criteria being utilized

are job-related. Discontinue using criteria that are not job-related, and adopt methods which diminish adverse impact.

5. If women, minorities, or other protected groups are underrepresented in titles where there is discretion in hiring, advertise in minority- or female-oriented publications; contact organizations serving women, minorities, and other protected groups; participate in career fairs/open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
6. If women, minorities, or other protected groups are underrepresented in civil service (list) titles, review the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standards are updated, job-related and required by business necessity. (This includes working with DCAS or the Civil Service Commission if applicable.) Then advertise in minority- or female-oriented publications, contact organizations serving women, minorities, and other protected groups; participate in career fairs or open houses; or use internships to attract interested persons and to develop and hire interested and qualified candidates.
7. Use and maintain an applicant/candidate log or tracking system which, at minimum, includes the position, applicants'/candidates' names, identification number, ethnicity, gender, disability or veteran status, interview date, interviewers' names, result, reason selected/not selected (or disposition) of each applicant, and recruitment source. Ensure that the process avoids the appearance of bias by delegating the responsibility for recording and maintaining this information to an individual other than the hiring manager.
8. Designate a professional (may be referred to as the Career Counselor) with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Remind employees of the identity/type of guidance available from the Career Counselor at least once each year.
9. Ensure that all employees have access to information regarding performance evaluation standards, and training opportunities.
10. Maintain appropriate documentation of meetings and other communications between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional regarding decisions that impact the administration and operation of the EEO program.
11. Establish and implement an annual managerial/non-managerial performance evaluation program (with timetable) to be used for probationary periods, promotions, assignments, incentives and training.
12. Ensure that the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).
13. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

**Whereas,** BCDA submitted its response to the EEPC's Preliminary Determination letter, on June 6, 2016, with documentation of its actions to rectify required corrective actions Nos. 1, 9, 12, and 13; and

**Whereas,** in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on June 16, 2016 which indicated that corrective actions Nos. 2 - 8, 10 and 11 require compliance monitoring; and

**Whereas,** BCDA submitted its response to the EEPC's Final Determination letter, on July 18, 2016; and

**Whereas,** in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC monitored the agency's implementation of the corrective actions from July 2016 - December 2016, with no extension of the monitoring period; and


**Whereas,** at the EEPC's request pursuant to Section 815.a.(15) of the New York City Charter, BCDA submitted a copy of the agency head's memorandum to staff, dated January 11, 2017, which outlined the corrective actions implemented in response to the EEPC's audit and reiterated her commitment to the agency's EEO Program; and

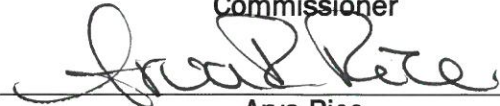
**Whereas,** all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection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

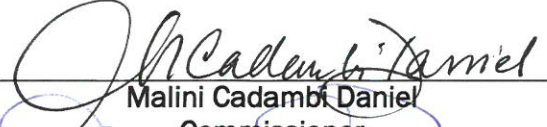
**Be It Resolved,** that the Office of the Bronx County District Attorney has implemented the required corrective actions deemed necessary to ensure compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the City Charter.


**Be It Resolved,** that the Commission will forward this Final Determination to District Attorney Parcel D. Clark of the Office of the Bronx County District Attorney.

Approved unanimously on January 19, 2017.

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

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

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

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



**Equal Employment  
Practices Commission**

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

**Charise L. Terry, PHR**  
Executive Director

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212. 615. 8931 fax

**BY MAIL AND EMAIL**

January 19, 2017

Darcel D. Clark  
District Attorney  
Bronx County District Attorney's Office  
198 East 161st Street, 9th Floor  
Bronx, NY 10451

Re: Resolution #2016/902C-AP21: Determination of Agency  
Compliance

Dear District Attorney Clark:

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

On behalf of this Commission, I want to thank you and Principal EEO Professional Cicely Harris for the cooperation extended to the EEPC during the compliance-monitoring period.

Sincerely,

  
Angela Cabrera  
Commissioner

c: Cicely Harris, Principal EEO Professional




This  
**Determination of Compliance**


is issued to the

**Office of the Bronx County District Attorney**

for successfully implementing 13 of 13 required corrective actions pursuant to the Equal Employment Practices Commission's  
Employment Practice and Procedures Audit From January 1, 2013 to this date.

On this 19<sup>th</sup> day of January in the year 2017,

  
Angela Cabrera  
Commissioner

  
Judith Garcia Quiñonez, Esq.  
Executive Agency Counsel/Deputy Director

In care of District Attorney Darcel D. Clark  
and Principal EEO Professional Cicely Harris