



NEW YORK CITY
HOUSING
AUTHORITY

NEW YORK CITY HOUSING AUTHORITY

250 BROADWAY • NEW YORK, NY 10007

TEL: (212) 306-3000 • <http://nyc.gov/nycha>

TINO HERNANDEZ
CHAIRMAN
EARL ANDREWS, JR.
VICE CHAIRMAN
MARGARITA LÓPEZ
MEMBER
VILMA HUERTAS
SECRETARY
DOUGLAS APPLE
GENERAL MANAGER

03-10-06 RCVD 9142

September 28, 2006

Manuel A. Méndez
Vice-Chair
Equal Employment Practices Commission
City of New York
40 Rector Street
14th Floor
New York, NY 10006

**Re: Preliminary Determination Pursuant to Audit of the New York
City Housing Authority Equal Employment Opportunity
Program from July 1, 2003 to June 30, 2005**

Dear Vice-Chair Méndez:

The New York City Housing Authority (NYCHA) has reviewed the New York City Equal Employment Practices Commission's (EEPC) Preliminary Determination dated August 3, 2006. Prior to this report, EEPC and NYCHA had an exit audit meeting on July 21, 2006, to discuss the draft Preliminary Audit Report. During that meeting, NYCHA pointed out several factual inaccuracies in the draft report. We also expressed our concern over EEPC's reliance on a survey, which sampled a very small fraction of NYCHA employees, to make a determination that NYCHA is in "partial compliance" with the City's EEO Policy. This response includes NYCHA's previously expressed concerns about EEPC's use of the survey results and also provides a detailed response to each of the recommended corrective actions.

EEO Policy Statements – page 3 of the Determination

NYCHA is in partial compliance with the following requirements:

The NYCHA's EEO Policy statements (which include a general EEO Policy statement, Sexual Harassment Policy Statement, Reasonable Accommodation Policy

and Procedure, Non-Discrimination Policy, Policies on Anti-retaliation and Confidentiality, and Discrimination Complaint Procedure) were distributed agency-wide in 2005. An Anti-Discrimination Policy is also distributed to each department director, who ensures that it is conspicuously posted at each site. The policy statements are also distributed at new employee orientation sessions and posted on agency bulletin boards. Upon receipt of the policies, each employee is required to sign an Employee Acknowledgement form. Also, 80% of the survey respondents said that they have a copy of the agency's sexual harassment policies.

Note: Although the Equal Employment Opportunity Policy Statement and Sexual Harassment Policy Statement are distributed together, 37% of survey respondents indicated that they had not received, or did not remember receiving, the agency's EEO Policy Statement. In addition, 50% of the survey respondents indicated that they either do not have, or do not remember having, a copy of the NYCHA's discrimination complaint procedure.

Response

EEPC, in making its determination, fails to articulate the relevant provision in the City's EEO Policy with which NYCHA purportedly failed to comply. According to the third paragraph on the first page of this report it states the following:

This audit measures NYCHA's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in city guidelines (outlined in the City of New York's EEO Policy). The relevant sections of these guidelines and documents are cited in parenthesis, where applicable, at the end of each recommendation.

This "partial compliance" determination is erroneously based on a survey response of 224 NYCHA employees. EEPC mailed out 2,500 surveys to NYCHA employees. As of the date of the survey mailing, there were approximately 13,000 NYCHA employees, of whom the EEPC only surveyed 224 or 1.7% of the NYCHA employee population. The note implies that the EEPC applied a standard that requires an agency head to ensure that employees **remember** receiving these policies; however, no such requirement exists in NYCHA's EEO Policy or the City of New York EEO Policy.

Section IV B of the City of New York EEO Policy requires agency heads to distribute a copy of the EEO policy to all employees and ensure that a copy is available on the agency's website. NYCHA goes above and beyond this requirement of distributing its policies. As acknowledged by EEPC, NYCHA requires all NYCHA employees to sign an Employee Acknowledgement of Receipt of both the EEO Policy Statement and the Sexual Harassment Statement. New employees receive these policies at orientation sessions and also sign Acknowledgment forms. These receipts are placed in the employees' personnel files. Further, NYCHA has rosters containing the signatures of employees to verify their receipt of Policy Statements distributed

November 2005. And, as required, NYCHA's EEO and Sexual Harassment Policies are available to employees through the agency's intranet website.

While NYCHA can not ensure that its employees remember receiving its EEO and Sexual Harassment policies, a standard implied by this determination, NYCHA has taken steps to promote awareness of its policies. The Employee Acknowledgment form that employees sign upon receipt of NYCHA's policies informs them that they have an obligation to conform their conduct in the workplace in compliance with the requirements of these policies. It further informs that any violation of these policies or laws prohibiting discrimination may result in disciplinary action, up to and including dismissal. These policies are posted on the agency's website and training sessions on these policies are conducted during the course of the year. During the audit period, 13,485 employees received training on the NYCHA's EEO and Sexual Harassment policies. These policies are reviewed with new employees at orientation sessions. The Office of Employment Opportunities also offers specialized training on specific EEO topics upon request by management or as remedial measure.

EEPC use of a survey response from 1.7% of NYCHA's approximate 13,000 employee-population as a basis for its partial compliance determination is not an adequate measure to evaluate NYCHA's compliance with the requirement of the Citywide EEO policy, which only requires NYCHA to distribute its policies. Given NYCHA's procedure for ensuring that each employee received a copy of its EEO and Sexual Harassment policies, by obtaining a receipt, the best measure or evidence of NYCHA's compliance with the City of New York EEO Policy was either the Employee Acknowledgment forms or the rosters which were available to EEPC.

Therefore, this determination should reflect that NYCHA has complied with the Citywide Policy.

Recommended Corrective Actions

1. *The NYCHA should follow sections V(C)(4) of the Citywide EEO Policy and ensure that its EEO policies are available in formats accessible to applicants and employees with disabilities. Specifically, the NYCHA should ensure that its EEO policy is equally accessible to persons with visual impairments (e.g., large print, audio cassette or Braille).*

Response

NYCHA will comply with this recommendation by making its EEO policies available in large print, audio cassette or Braille to ensure that they are accessible to applicants and employees with visual impairments.

Recommended Corrective Action

2. *The Associate Investigator who has not completed EEO training should complete such training by either attending standard training for EEO professionals conducted by the Department of Citywide Administrative*

Services or completing the EEO certification program at Cornell University's School of Industrial and Labor Relations. (Sect. IV and V(C)(1).

Response

NYCHA will comply with the training requirement.

Recommended Corrective Action

- 3. The Director of the DEO should memorialize meetings with the Chair where discrimination complaints are discussed and resolutions of those complaints are decided. These notes should indicate that the Chair has reviewed, and approved or disapproved, of the recommendations.*

Response

The Director of DEO will include in notes of meetings with the Chair where cases of discrimination are discussed that such cases were reviewed, and whether the recommendations were approved or disapproved.

Recommended Corrective Actions

- 4. Consistent with the NYCHA's OEO Investigation Manual, the Investigator should complete the investigation and issue the draft Investigation Report to the Assistant Director of the OEO within 90 business days of the filing of the complaint. (Sect. IV(A)(2), the NYCHA Investigator's Manual)*
- 5. In the event that there is some impediment to concluding the investigation within 90m business days, the reason for delay should be noted in the OEO case file. (Sect. IV(A)(2), the NYCHA's Investigation Manual)*

Response to #4 and #5

Although the investigators work towards completing investigations and issuing their investigative reports within the 90 business days, as recognized by EEPc, there are impediments to concluding investigations within that timeframe. The investigators will continue to work towards completing their cases within 90 business days. When cases can not be completed within that timeframe the reasons for the delay will be noted in the case file.

Recommended Corrective Action

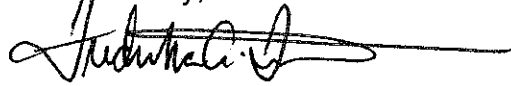
- 6. The NYCHA should include a tagline indicating the agency is an equal opportunity employer on all internal and external job vacancy notices. (Sect. IV, Citywide EEOP, 2005).*

Response

The determination found that the external newspaper advertisements and citywide postings reviewed by EEPc included the tagline that NYCHA is an equal opportunity employer, and five internal postings did not include the tagline.

NYCHA will continue to include the tagline on the external postings. The tagline has been included on the internal postings.

Sincerely,

A handwritten signature in black ink, appearing to read "Fredrika A. Wilson", with a long horizontal flourish extending to the right.

Fredrika A. Wilson
Director of the Department

c: Tino Hernandez, Chairman