



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

253 Broadway, Suite 301 New York, New York 10007

Telephone: (212) 240-7902 Fax: (212) 240-4889

Frank R. Nicolazzi  
*Vice-Chairman*

Angela Cabrera  
Manuel A. Méndez  
*Commissioners*

Abraham May, Jr.  
*Executive Director*

Eric Matusewitch, PHR, CAAP  
*Deputy Director*

December 11, 2002

Nicholas Scoppetta  
Commissioner  
New York City Fire Department  
9 MetroTech Center  
Brooklyn, New York 11201

Re: Final Determination Pursuant to the Follow-Up Audit of the New York City Fire Department's Recruitment Program for Examination No. 7029 (February 27, 1999).

Dear Commissioner Scoppetta:

Pursuant to Section 832 of Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) was required to monitor Audit Compliance by the New York City Fire Department (FDNY) pursuant to our Audit of your Department's Recruitment Program for Examination No. 7029 (February 27, 1999). The goal of monitoring is to ensure that the FDNY implements all of the recommended corrective actions.

On May 25, 2000 we issued our Letter of Preliminary Determination. On July 14, 2000 you issued your Response. On August 21, 2000, Vice-Chairman Frank R. Nicolazzi issued a letter informing you that at the March 10, 2000 audit exit meeting the FDNY had committed to implement certain recommendations, however, in the July 14<sup>th</sup> Response the FDNY reneged on those commitments. We then requested a Response indicating whether or not you would implement those recommendations and if not, what alternatives you would take to address them.

On September 14, 2000 we received your second Response. On October 31, 2000, Vice-Chairman Nicolazzi issued another letter informing you of various discrepancies in your second Response and requesting a meeting to discuss those discrepancies. We met on December 19, 2000 to discuss those issues.

On March 8, 2001 we met with the FDNY's newly appointed EEO Officer and her staff to present informally, our final determination pursuant to your Response. At that meeting we discussed your responses and identified the documentation required to demonstrate that FDNY has implemented the recommended corrective actions to meet the compliance standards of the

City's EEO and Chapters 35 and 36 of the New York City Charter. The agreed upon compliance period was from April through September 2001.

On October 18, 2001, in response to the World Trade Center Disaster, this Commission voted unanimously to suspend Audit Compliance until further notice. At that time the FDNY had submitted four out of six Monthly Compliance Reports.

On June 20, 2002, this Commission voted unanimously to resume Audit Compliance. The sixth and Final Report was due on September 13, 2002. FDNY submitted (via fax) an unofficial report on the due date. However, on September 20, 2002, we received your request for a one-month extension of the compliance period to allow you to address the outstanding corrective actions. This Commission granted the extension. The seventh and Final Compliance Report was then due on Wednesday, October 9, 2002 and was received the official Report on October 29, 2002.

Throughout the compliance period several correspondences were made between your EEO Office and this Commission to assist you in implementing the required corrective actions. During that period, your EEO Officer submitted seven Monthly Compliance Reports detailing your agency's efforts to implement the required corrective actions.

Commission staff has prepared, and submitted to this Commission for review, a Summary Compliance Report detailing your agency's response to all of the recommendations for corrective actions that your agency was required to address. The Commission also reviewed your final Monthly Compliance Report

## **FINAL DETERMINATION**

### **Implementation of Corrective Actions**

Based on our review of the Summary Compliance Report and your Final Report, this Commission has determined that the New York City Fire Department has complied with, or EEOC has accepted FDNY's responses to, the following recommendations:

#### Recommendation #2

The Department should grant five transfer points to field personnel who work as recruiters for at least two years.

#### Recommendation #4

The Advisory Committee should consist of one representative from each of the following FDNY fraternal organizations: the Vulcan Society, Hispanic Society, and United Women Firefighters. One representative from each of three other fraternal organizations selected by the Fire Commissioner should also serve on this Committee.

Recommendation #5

FDNY should have a designated annual budget to cover all recruitment expenses. This budget, at a minimum, should provide for approximately 25 employees and all Other Than Personnel Services (OTPS) expenses.

Recommendation #6

The five-point residency bonus should be awarded after firefighter applicants pass the written portion of the exam.

Recommendation #7

Fire Marshals should be authorized to conduct field investigations of the residencies of firefighter applicants and these investigations should be conducted with the intent to remove applicants from the list who defraud the City.

Recommendation #8

Training for CFR-D should be included in the Fire Academy curriculum, as it was in the past.

Recommendation #11

The Department should retain a consultant to develop the tutorial for the next written firefighters' examination. The members of the Advisory Committee should be involved in the Selection of that consultant.

Recommendation #12

FDNY should develop a plan, which allows graduates of the Cadet Corps program to take a promotional test for firefighter. This test, offered annually, should also be given in January, allowing adequate time for background investigations prior to graduation from the Cadet Corps the following June.

Recommendation #14

The open-competitive exam for firefighters should be held biannually.

Recommendation #15

All firefighter recruitment literature, including recruitment poster, should indicate that the Department is an equal opportunity employer.

Recommendation #16

The Department should develop and administer a training program for the physical portion of the firefighters' exam.

Recommendation #17

The Commissioner of the FDNY should disseminate an agency-wide memo to discuss audit findings.

## Non-Implementation of Corrective Actions

This Commission finds that the New York City Fire Department has failed to implement the following recommendations:

### Recommendation #1

There should be a year-round recruitment team for each borough. All recruitment teams should include at least one African American, one Hispanic, one Asian American and one Caucasian. No less than one recruiter should be a female.

### FDNY Response:

The Department stated that it continues to strive to assemble multi-cultural teams for recruitment on a year round basis. The present recruitment team includes persons of races and genders as specified in the recommendation. FDNY stated that the recruitment team changes on a daily basis and that it could not provide a breakdown of race and gender because it would not be accurate.

### EEPC Response:

The FDNY is in partial compliance with this recommendation. The FDNY said that the recruitment team is year round. This Commission requested the race and gender breakdown of the recruitment team. To date the FDNY has not provided this information.

### Recommendation #3

The Advisory Committee should be fully involved in all firefighter recruitment strategies and related decisions. In addition, management of the Fire Department should meet with the Committee at least on a quarterly basis and more frequently during the height of the recruitment campaign.

### FDNY Response:

The FDNY said that they have implemented this recommendation. The last meeting of the advisory committee was held on August 19, 2002. The FDNY said that over the last several months the Commissioner, Deputy Commissioner for Administration, and Assistant Commissioner for EEO have met with the Vulcan Society, Hispanic Society and United Women Firefighters Association on separate occasions to discuss, among other matters, the strategy and operations of the Recruitment Unit. Meetings will continue to be held on a quarterly basis and the committee will be invited to comment and provide input on recruitment issues.

### EEPC Response:

The FDNY has given no indication that the Advisory Committee is fully involved in all firefighter recruitment strategies and related decisions. The Commission requested verification in the form of a sign-in sheet, agenda, minutes or memo-to-file for the quarterly meetings. However, the FDNY said that no documentation was kept of the meeting. Documentation was not submitted.

Recommendation #9

FDNY, specifically its Office of Employment Initiatives, should assume prime responsibility for developing and implementing a program or strategy to reduce attrition by applicants in the underutilized groups-minorities and women.

FDNY Response:

The FDNY said that the Recruitment Unit with the assistance of various fraternal associations will encourage, orient and train potential candidates as well as create, maintain and track a database of potential candidates for information and continuous follow-up. The Recruitment Unit will also work with various organizations to assist in training and mentoring women candidates.

EEPC Response:

This Commission requested documentation on all its mentoring activities. The Department has yet to submit this information.

Recommendation #10

The Department should conduct an adverse impact study to determine if the new educational requirement disproportionately screens out members of historically under-represented groups. If the study reveals such disparate impact, the Department should conduct a validation study in accordance with the federal government's "Uniform Guidelines on Employee Selection Procedures."

FDNY Response:

The FDNY said that while it believes that the college requirement is relevant, they are giving the recommendation of conducting an adverse impact study ongoing consideration.

EEPC Response:

FDNY has not implemented this recommendation or provided a satisfactory alternative.

Recommendation #13

The Fire Department should conduct an adverse impact study based on the results of the written examination. If the Department's study reveals that the test disproportionately screens out minority or female candidates, FDNY should conduct a validation study in accordance with the federal government's "Uniform Guidelines on Employee Selection Procedures."

FDNY Response:

The Fire Department said that it is giving this recommendation ongoing consideration.

EEPC Response:

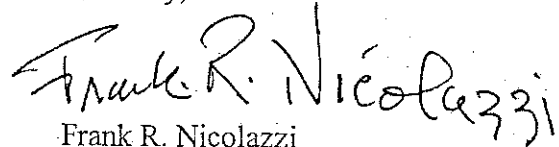
FDNY has not implemented this recommendation or provided a satisfactory alternative.

## Conclusion

Pursuant to Chapter 36 of the New York City Charter, we request your response to this Letter of Final Determination within thirty days, detailing your intention to implement the outstanding corrective actions. Based on your response this Commission will establish a post-compliance period of no more than sixty days for the implementation of these outstanding corrective actions. If after the compliance period, the Commission determines that you have not taken appropriate and effective corrective action, this Commission shall notify you in writing of this determination and the Commission may thereafter publish a report and recommend to the Mayor whatever appropriate corrective action(s) the Commission deems necessary to ensure compliance with equal employment opportunity pursuant to the requirements of Chapter 35 and 36 of the New York City Charter.

Thank you for your cooperation.

Sincerely,

A handwritten signature in dark ink, reading "Frank R. Nicolazzi". The signature is written in a cursive, flowing style. The first name "Frank" is written with a large, sweeping capital "F". The middle initial "R." is written in a smaller, more compact script. The last name "Nicolazzi" is written with a large, prominent capital "N" and a trailing flourish.

Frank R. Nicolazzi  
Vice-Chairman