

Carl Weisbrod, *Director*Department of City Planning

VIA EMAIL & HAND DELIVERY

October 6, 2015

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

Re: Resolution #: **2015/30**: Final Determination Pursuant to the Audit and Analysis of the Department of City Planning's Employment Practices and Procedures from January 1, 2012 to December 31, 2014

Dear Executive Director Terry:

In response to the Final Determination of the Department of City Planning's Employment Practices and Procedures from January 1, 2012 through December 31, 2014, please find our response below to the noted areas of partial and non-compliance, where corrective actions were indicated. Our response includes a couple of new attachments.

First, I want to again reiterate that our agency, under Carl Weisbrod's leadership, is committed to proactively maintaining and promoting an environment of diversity and inclusion and ensuring that our agency is representative of the communities we serve.

II. EEO TRAINING FOR AGENCY

Correction Action #1 - Establish & Implement an EEO Training Plan for New & Existing Employees

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Documentation that the agency established and implemented an EEO training plan will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

The Department has already begun implementation of this plan. We have included the updated EEO Training Plan for New & Existing Employees (Attachment #1), as well as the updated EEO New Hire Orientation presentation (Attachment #2), both of which have already been implemented.

III. EMPLOYMENT PRACTICES (Recruitment, Hiring & Promotion)

<u>Corrective Action #2 – Assess Recruitment Efforts for Adverse Impact</u>

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. An agency assessment of the recruitment efforts will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

First, City Planning has updated our selection processes, including requiring managers to submit Candidate Logs, which have been updated to ensure race/ethnic group is captured correctly and in compliance, as well as the addition of disability and veteran status. This log was previously accepted by the EEPC in response to Corrective Action #7.

These Candidate Logs will be assessed and analyzed both individually and collectively to determine if there is adverse impact on any particular group(s). In addition, we have begun leveraging the CEEDS reports to identify where opportunities exist to address adverse impact within specific job groups. As previously communicated, we are focused on ensuring that our agency represents the diverse communities we represent and are in the process of proactively developing a diverse recruiting strategy to ensure job postings are reaching a diverse population of candidates. We have already begun exploring where we will test the impact of expanding our outreach for our FY 2016 new lines recruiting, which we are continuing to roll out over the next several months. In addition, we have a new staff member, Monique Jones, who will be working on developing the agency's Recruiting Strategy, focused on positively impacting diversity.

Lastly, we will be incorporating a report out on the results of our recruiting efforts during the quarterly meetings with Director Carl Weisbrod, General Counsel Anita Laremont, Executive Director, Purnima Kapur, Chief Operating Officer Jon Kaufman and the EEO Officers.

Corrective Actions #3 – Assess Candidate Selection Methods

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. An Agency assessment of the selection procedures will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

We are in the process of finalizing a new panel interview process, which will be piloted on 5-7 City Planner I and Assistant Urban Designer titles to assess the results against traditional recruiting methods. We are also finalizing Structured Interview Guides and Candidate Evaluation Forms that have been piloted in the Planning Coordination and Human Capital divisions, so that we can provide all hiring managers with better tools (sample provided in Response to Preliminary Audit). These tools have already demonstrated their value to help provide quantitative data for Interviewing Panels to facilitate decisions on the most suitable candidate.

Over the next few months, we will be extending our outreach beyond planning schools we have worked with in the past to target minority, female and other underrepresented groups of candidates. We will test these tools, recruiting sources and processes, comparing the results to past practices and will adjust as needed on an ongoing, proactive basis to ensure we are impacting our diversity recruiting efforts.

Corrective Actions #4 - Address Underrepresentation in Titles with Discretionary Hiring

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Implementation of this corrective action will be monitored. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Similarly, we will apply these same proactive methods towards all open positions, but with additional effort focused around underrepresentation in specific titles, as identified in the CEEDS Reports.

Lastly, as previously communicated, our internship programs have provided strong feeder pools for open positions within the agency in the past. We are starting to capture voluntary EEO information from our interns, so that we may also identify any underutilization or overutilization of protected classes.

Corrective Action #5 - Address Underrepresentation in Civil Service (List) Titles

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Implementation of this corrective action will be monitored. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

We will work with DCAS to review competencies, skills and abilities included in job specifications for the six job groups that indicated underutilization on the CEEDS Report, as needed. We have already worked with Jodi Bryon (DCAS), Director of Workforce Analytics, to gain a better understanding of the reports. In reviewing the 4th Quarter, 2015 CEEDS Report, we noticed that underutilization had already been reduced to four job groups, all of which fell under the 4/5ths rule (U-80%). While the definition of this imbalance is not considered statistically significant, we will of course continue to focus on utilization and diversity.

It is also noteworthy that largest concentration of our staff fall under the City Planner title (Job Group 006/Social Scientists) and we anticipate that this exam will be developed during Fiscal Year 2016. As part of this process, a diverse, cross-section of our staff will participate in the examination preparation with DCAS through Job Analysis Questionnaires and Subject Matter Panels to ensure the civil service examination is focused on the right competencies, skills and abilities. Similarly, we have been involved in assisting with the preparation of the City Planning Tech exam, where we had the opportunity for all provisional employees in the title to participate in the process.

Corrective Action #6 – Ensure EEO Training for all HR Professionals, Managers, Supervisors & Interviewers

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Demonstration that the agency implemented training will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Human Resources Professionals within City Planning that are involved in recruiting and selection are trained in EEO and interviewing, selection and hiring skills and act as coaches to hiring managers within the agency. We have identified a need to refresh our managers on EEO and interviewing and selection and identifying the most capable candidates. While we develop this training, we are rolling out the aforementioned Structured Interview Guides and Candidate Evaluation Forms over the next month for all positions, which can be customized to focus on the competencies, skills and abilities required for specific roles. As mentioned earlier, these tools will ensure consistency across all interviews, as well as providing hiring managers with objective, quantitative evaluation tools and processes.

<u>Corrective Action #7 – Use & Maintain Applicant/Candidate Log or Tracking System</u>

<u>Previous EEPC Response</u>: **Compliance.** The EEPC accepts the agency's response as documentation that Corrective Action #7 has been implemented.

As mentioned earlier, we have revised our selection and interview tracking process – please refer to the attached Candidate Log, which we will begin implementing immediately to replace our existing Selection Memo process.

IV. CAREER COUNSELING

Corrective Action #8 - Reminder of Identity of Career Counselor & Career Guidance Available

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Documentation of distribution will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Since we have had a change in staff within the Human Resources function, we will include notification of the new Career Counselor (Dana Cohen) in the agency announcement to be sent by Director Carl Weisbrod in October that communicates the changes and upgrades within the overall agency EEO program, as well as reaffirming our commitment to Diversity & Inclusion. We have already updated our new hire orientation with this information and will update our intranet to reflect this change and provide examples of the type of guidance available. We will also be implementing an annual process to communicate EEO information and results to the entire agency. As part of this annual communication, we will include the identity of the Career Counselor and the type of guidance available. Please note we will be updating the plan for FY 2016 with the Career Counselor's refreshed responsibilities.

Corrective Action #9 - Ensure & Maintain Documentation of Communications, Information & Access

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Documentation of communication(s) will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

As stated above, we have a communication plan that will ensure all staff is notified of the identity of the Career Counselor, as well as inclusion in New Hire Orientation, on the intranet and part of an annual EEO communication to all staff on an ongoing basis. As part of ongoing and annual communications, we will

continue to ensure that all staff are aware of job responsibilities, performance evaluations, training opportunities and job postings.

Further, we will be focusing recruiting efforts on attracting qualified candidates with disabilities. We have identified a number of recruiting sources through CDEEO and will be reaching out to the Mayor's Office for People with Disabilities, as well as Frank Palmieri (DCAS) for best practices and guidance in this area.

Lastly, we currently have only 1 55-a program participant within City Planning and both the EEO Professional (Sarah Whitham) and the Human Resources Professional (Dana Cohen) are aware.

V. <u>EEO & REASONABLE ACCOMMODATIONS FOR EMPLOYEES/APPLICANTS FOR EMPLOYMENT WITH DISABILITIES</u>

No Corrective Action Required

Although we do not have corrective action here and no alternative formats were requested during the audit period, we will be updating the EEO section of our intranet and website, as well as all of our postings to indicate that alternative formats are available. Jocelyn Tan-Lobo provided documents with Read Out Loud capability and we will provide those instructions alongside these formats, as well as indicating that documents can be made available in large print format.

VIII. REPORTING STANDARD FOR AGENCY HEAD

<u>Corrective Action #10 – Ensure Training for EEO Professionals</u>

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Documentation that EEO Professionals received training will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Both co-EEO Professionals (Sarah Whitham and Edwin Marshall) attended EEO Training before they assumed their responsibilities. However, Mr. Marshall was unable to locate his certificate, as he attended the original training over 10 years ago.

Although Dana Cohen assumed the Human Resources Professional role in April, she was unable to attend the EEO Training in July, due to agency-critical payroll issues. However, she did attend New EEO Officer Orientation led by Jocelyn Tan-Lobo (DCAS), Executive Director of Compliance, on September 14, 2015 and is planning to attend the next EEO Training sessions in Spring 2016. In the meantime, Ms. Cohen will draw from her 20 years as a Human Resources Professional, leveraging the recent, extensive EEO and Diversity & Inclusion training she received at her last employer, MetLife, as well as from recent coursework.

Corrective Action #11 - Reporting Relationship between Principal EEO Professional & Agency Head

<u>Previous EEPC Response</u>: **Compliance**. The EEPC accepts the agency's response as documentation that Corrective Action #11 has been implemented.

During the audit period, the co-EEO Officers reported to the Executive Director, as reflected on the organization chart.

Corrective Action #12 - Document Meetings & Communications with Agency Head & EEO Professionals

<u>Previous EEPC Response</u>: **Monitoring Required.** The EEPC recognizes the agency's efforts. Documentation of communication will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Starting on August 18, 2015, the Human Resources Professional, Co-EEO Officers met with the Agency Head and Executive Staff (General Counsel, Executive Director, Chief Operating Officer) and will continue to do so on a quarterly basis with a defined agenda to include, but not limited to, reviewing the following: EEPC Audit Determination & Corrective Actions and Progress, CEEDS Report data (synthesized and presented in a more user-friendly format), new recruiting efforts and results/metrics, impact of outreach, etc. We will maintain a file of the agendas, minutes and follow up action items.

Corrective Action #13 - Submission to EEPC of Annual Plan

<u>Previous EEPC Response</u>: **Compliance.** The EEPC accepts the agency's response as documentation that Corrective Action #13 has been implemented.

EEPC FY 2014 Annual Plan

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Dana Cohen, PHR

Director of Human Capital & Operations

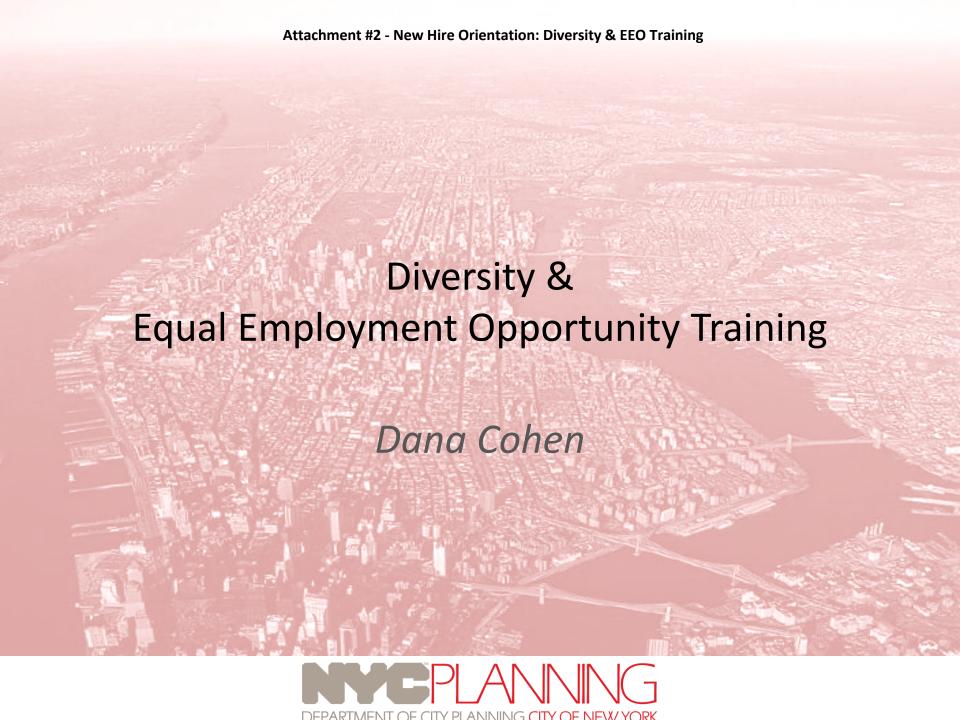
Attachments

Cc: Carl Weisbrod, Director

Anita Laremont, General Counsel Jon Kaufman, Chief Operating Officer

Attachment #1: EEO Training Plan for New & Existing Employees – Action Plan

Action Item	Timeframe	Audience	Owner	Dependencies/Activities	Update
Refresh existing New Hire Orientation EEO Presentation	August 31, 2015	New Hires	Dana Cohen	 Update/enhance current PowerPoint created by S.Whitham & E.Marshall Leveraging content from other agencies (e.g., DCAS, DCA) to update (e.g., EEO rights and responsibilities, discrimination complaint and investigation procedures, prevention of sexual harassment, reasonable accommodation procedures, diversity and inclusion, etc.) 	Completed Expect ongoing updates to presentation
Rollout of CBT EEO Orientation	November, December 2015	New Hires Current Staff	Dana Cohen Monique Jones	Dependent on availability of training via DCAS – expect to participate in soft launch to EEO Officers in late August, per B. French (DCAS).	Waiting on confirmation of availability from CDEEO
Rollout of <i>Everybody Matters</i> CBT	January, February 2016	Current Staff New Hires	Dana Cohen Monique Jones	EEO Officers & Managers attended in 2013 – plan to roll out CBT to entire agency and new hires.	Waiting on confirmation of availability from CDEEO
Refresh of content available on DCP Commons (intranet) with commitment communication from Director Carl Weisbrod	October 2015	All Agency	Dana Cohen Sophie Nitkin Samantha Kleinfield	Includes: Message from C.Weisbrod, EEO Rights & responsibilities, Discrimination Complaints & Investigation Procedures, Prevention of Sexual Harassment, Reasonable Accommodation Procedures, etc.	• In process
EEO Interviewing, Hiring & Selection Training	November 2015	Managers, Supervisors, Hiring Managers & other Interviewers	Dana Cohen Monique Jones	Ensure all Managers, Supervisors, Hiring Managers and other Interviewers are trained in EEO and interviewing, selection and hiring skills to enable the identification of the most capable candidates (e.g., Structured Interview Guides, Candidate Evaluation Forms implementation and related training).	In process: Tools being finalized and training in development
Document Training Plan	October 2015	EEPC, CDEEO, NYCCSC, NY City Council	Dana Cohen Monique Jones	Training Plan to be included in DCP EEO Plan FY 2016.	To be submitted week of October 5, 2015



Commitment Statement from Carl Weisbrod

We recognize that the people of our agency are one of our greatest assets, and we are committed to the recruitment, development and retention of a diverse and inclusive workforce that is reflective of our City's population. We recognize that when we talk about Diversity, we are talking about the inclusion of people who are different. When we value our differences, we build stronger teams driving the best performance. I expect all managers and supervisors to promote a work environment that values equity, inclusion of, and respect for all. I want our employees, present and future, to view our agency as a model employer.



Agenda

What is EEO?
Behaviors that may violate the City's EEO Policy
Sexual Harassment
Discrimination Complaint Procedures
Reasonable Accommodation Policy & Procedures
Diversity & Inclusion Awareness
Questions / Wrap Up



What is EEO all about?

Equal employment opportunity exists when all employees and applicants for employment, regardless of their race, gender, national origin, religion, and other protected categories are given an equal opportunity to succeed in the workplace.



What is EEO all about? (continued)

Decisions and actions must be made without discrimination in the areas of:

- Recruitment
- Testing
- Selection
- Hiring
- Work assignments
- ☐ Salary and benefits
- Accommodations
- Working Conditions

- Performance
 - **Evaluations**
- Promotions
- Training Opportunities
- ☐ Career development
- Transfers
- Discipline
- Termination



How are you protected?

- By Federal Law
- By New York State Law
- By New York City Law
- By the City's EEO Policy which incorporates all of the above, with additional provisions

(Administrative Code of the City of New York, Title 8)

http://nyc.gov/html/cchr/downloads/pdf/human-rights/nyc-human-rights-law.pdf



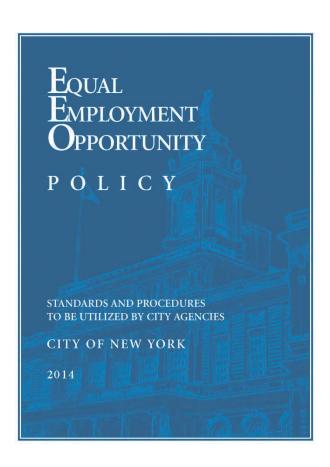
The City's EEO Policy

Covers:

- All City employees
- Applicants for employment
- Interns (paid & unpaid)
- Work Experience Program (WEP)
 Participants

Applies to extensions of the workplace:

- Field locations
- Off-site City functions
- City vehicles
- Any facility where City business is being conducted and discussed





The City's EEO Policy

Created to:

- Ensure that all workplaces in City agencies are free of discrimination, including harassment
- Provides a process for employees and applicants for employment to complain about discrimination or seek a reasonable accommodation
- Protects employees and applicants for employment from retaliation when making EEO complaints or cooperating in EEO investigations



Protected Categories

City employees and applicants for employment are protected from discrimination based on the following categories, whether actual or perceived:

Age (18 or older) Alienage/Citizenship Status Color Creed/Religion Disability Gender/Gender Identity **Marital Status** Military Status **National Origin**

Partnership Status

- Predisposing Genetic Characteristics/Genetic Information
- Prior Record of Arrest/Conviction
- □ Race/Ethnicity
- Sexual Orientation
- ☐ Unemployment Status
- Victim of Domestic Violence
- ☐ Victim of Sex Offenses or Stalking



Examples of Behavior that may violate the City's EEO Policy

- Treating an individual differently based on a protected category
- Engaging in unwelcome behavior that creates a threatening, intimidating, offensive, or hostile work environment
- Using derogatory or demeaning statements, slurs, jokes, gestures, notes, materials, or emails
- Treating individuals differently because of their association with persons in a protected category
- Retaliating against or harassing any person for:
 - 1. Filing an EEO complaint
 - 2. Seeking a reasonable accommodation
 - 3. Opposing discrimination in the workplace
 - 4. Cooperating in an EEO investigation



Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of sexual nature when:

- Submission to or rejection of this conduct explicitly or implicitly affects an individual's employment
- Unreasonably interferes with an individual's work performance
- Creates an intimidating, hostile, or offensive work environment



What is Unwelcome Conduct?

- Conduct is unwelcome if you did not initiate it, encourage it, provoke it or request it
- Conduct that makes you feel you are being ridiculed or that the conduct is demeaning, insulting, offensive, undesirable, hostile, intimidating or threatening



Examples of Sexual Harassment

Quid Pro Quo

- Asking for or pressuring a person into granting sexual favors in exchange for a job benefit
- Threatening a person with negative employment decisions

for rejecting sexual advances



Examples of Sexual Harassment

Hostile Work Environment

- ☐ Telling sexual jokes or making sexual comments which cause discomfort to an individual
- Repeatedly asking a co-worker for a date if the invites are unwelcome
- ☐ Using office equipment, interoffice mail, the internet, e-mail, social media, cell phones, texts, voice-mail, or bulletin boards to send or display sexually suggestive messages, pictures, cartoons, posters or objects
- ☐ Leering, squeezing, pinching, grabbing or other touching



Intent vs. Impact

- Even if it is not your intent to hurt others, your behavior may be unwelcome, offensive, intimidating or hostile and could be perceived as harassing
- Be aware of how others are reacting to your behavior, the impact of your behavior and always treat others with courtesy and respect



Filing a Complaint

- ☐ Complaints can be filed against a supervisor, coworker, client, customer, consultant, vendor, another City employee or other person who is not a City employee
- ☐ Complaints must be made within one year of the incident that you are complaining about
- You can file a complaint anonymously by calling or writing the EEO Officer or a member of the Human Capital team



Meeting with the EEO Officer or Human Capital

- You can meet with an EEO Officer or Human Capital during office hours, however, you should get permission from your supervisor to leave your work area.
- ☐ If you prefer, an EEO Officer or Human Capital can arrange to meet with you before or after office hours, during lunch, or at outside premises, without your supervisor's knowledge or permission.
- ☐ You can bring someone with you to the EEO meeting, as long as you provide advance notice.



NYC Employees' EEO Complaint Procedure

What can I do if I believe that I have been discriminated against?

Refer to "All About EEO" or the City's EEO
Policy or your agency's EEO Complaint Form

2
Document the incident or behavior

3
Contact your agency's EEO Office

Prepare for your meeting with the EEO Office Review your agency's EEO Complaint Form

The EEO Office will review the matter to determine if it is EEO related



Filing an External Complaint

You have a right to file a complaint with any of the federal, state and local agencies that enforce laws against discrimination listed below:

- New York City Commission on Human Rights (CCHR)
- New York State Division of Human Rights (SDHR)
- ☐ United States Equal Employment Opportunity Commission (EEOC)
- United States Department of Justice, Civil Rights Division
- ☐ United States Department of Labor (DOL)



Confidentiality

All EEO related matters (e.g., complaints, investigations, requests for reasonable accommodations, records, etc.) will be handled, to the greatest extent possible, in a manner that will protect the privacy interests of those involved



Reasonable Accommodations

A reasonable accommodation is a **change** or **adjustment** to a job or work environment that enables a qualified applicant or employee to:

- Participate in the job application process
- Perform the essential functions of a job
- Enjoy the benefits and privileges of employment equal to employees without an accommodation



Reasonable Accommodations

stalking

May be provided based on:
Disability
Religion
Pregnancy, childbirth, or related medical condition

☐ Victims of domestic violence, sex offenses or



Types of Accommodations

- ☐ Facilities: Making facilities physically accessible to persons with disabilities
- ☐ Job Restructuring: Reallocating non-essential assignments, voluntary shift swaps/reassignment
- Modified Work Schedules and Leave
- Modified Policies and Support Services
- Equipment: providing or modifying equipment, devices or materials



Requesting a Reasonable Accommodation

STEP 1

Speak to Supervisor/Manager, EEO Officer or Human Capital

STEP 2

Complete form available on DCP Commons

Provide documentation in support of your request

STEP 3

Agency evaluates request
Agency determines if request will be granted



Undue Hardship

City agencies are required to provide reasonable accommodations unless providing such accommodations create an undue hardship

- Undue hardship
 - ☐ An accommodation that is excessively difficult, costly, extensive, substantial, disruptive or unsafe
 - An accommodation that would change the nature or operation of an agency's business



Appealing a Denied Request

If a request for a reasonable accommodation is denied, you may:

- Accept the agency's decision and end the process
- File an appeal with your agency head or his or her designee

If your appeal is denied, you may file a discrimination complaint with your agency's EEO Office or with any of the federal, state, and local agencies that enforce laws against discrimination



The City's Commitment to Diversity & Inclusion

 The City is "committed to valuing diversity and maintaining an inclusive work environment for all New York City employees. It is through the inclusion of our diversity of thought, experience, culture, and background that we do our best work."

http://www.dcp.nycnet/dcpcommons/downloads/pdf/human resources/eeo/EEO what you may not know 2014.pdf



How We Define Diversity: "Everyone"

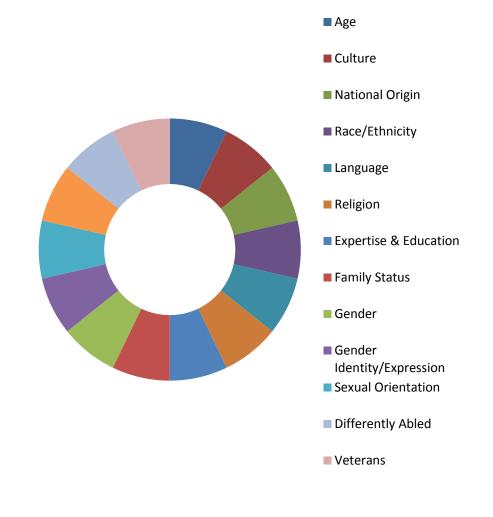
Everyone

No two people are the same. Diversity is the inclusion of people who are different. The power of diversity is that we can use multiple opinions, cultures and backgrounds to drive our best work.

Business Case

Cultures that ignore diversity and inclusion invite lower productivity, higher absenteeism, and higher turnover resulting in higher costs.

A diverse and inclusive organization receives increased productivity, reduced turnover, sustainable leadership and a brand and legacy of relevance to the communities it serves.





DCP's Expectations for Employees

- All employees should be respectful of their co-workers and members of the public.
- All employees of the agency are responsible for creating a work environment free of discrimination and harassment.
- Notify your manager, EEO Officer or Human Capital if:
 - You believe that you have been subjected to, or witnessed, conduct that may violate these policies
 - You believe that you have been the victim of, or witnessed, retaliation in violation of these policies
 - You hold a supervisory or managerial position and have been told about or witnessed conduct that may violate these policies



DCP EEO Resources

DCP's EEO Resources:

SARAH WHITHAM

Co-EEO Officer 212-720-3452

swhitha@planning.nyc.gov

EDWIN MARSHALL

Co-EEO Officer 212-720-3560

emarsha@planning.nyc.gov

DANA COHEN

Director, Human Capital & Operations

Career Counselor

212-720-3650

- DCP Commons –EEO page under Human Resources
 - Message from Mayor Bill de Blasio Commitment to Diversity and Inclusion and EEO
 - "About EEO: What You May Not Know"
 - "Equal Opportunity Policy: Standards and Procedures to be Utilized by City Agencies"



Questions? / Wrap-Up



