



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.  
Agency Attorney/  
Director of Compliance Monitoring

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 615. 8931 fax

**BY MAIL AND EMAIL**

July 20, 2016

Farley Herzek  
President  
Kingsborough Community College  
2001 Oriental Blvd. Room A-228  
Brooklyn, NY 11235-2398

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Kingsborough Community College's Employment Practices and Procedures from July 1, 2013 to December 31, 2015.

Dear President Herzek:

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 July 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 Kingsborough Community College, 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

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



their individual questionnaires. The Commission's EEO Program Analysts also conduct additional research and follow-up discussions or interviews with EEO professionals, when appropriate.

### Description of the Agency

Kingsborough Community College was founded in 1963 as part of the City University of New York (CUNY). Kingsborough offers 38 associate degree and 4 certificate programs. Of the approximately 15,000 degree-seeking students, about 70% are enrolled in liberal arts or science degree programs and the remainder pursue degrees in more specialized, career-oriented programs. More than 70% of Kingsborough graduates go on to pursue a baccalaureate degree. The college has articulation agreements with most City University and State University senior colleges, and transfer agreements with several private colleges in the region. Kingsborough Community College is fully accredited by the Middle States Commission on Higher Education. The Commission on Accreditation in Physical Therapy Education accredits the Physical Therapist Assistant Program. The Surgical Technology program is accredited by the Accreditation Review Council on Education in Surgical Technology and Surgical Assisting. All academic programs are registered by the New York State Education Department. (For more information please see <http://www.kingsborough.edu/sub-about/Pages/AboutKCC.aspx> ).

At the end of the audit period, the agency total workforce consisted of 963 employees: 355 were pedagogical employees; and 608 were non-pedagogical employees—which fall under the EEPC's jurisdiction. (See Appendix 1.)

### 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 agency head issued an EEO Policy memo in 2012 and 2015. The agency head's memo "Reaffirmation of Commitment to Diversity/ Equal Opportunity/ Affirmative Action" of 2015, declared "compliance with the CUNY Policies and Procedures on Equal Opportunity, Non-Discrimination, and on Sexual Misconduct," and further stated its commitment to "recruit, employ, retain, promote, and provide benefits to employees regardless of race, color, creed, national origin, ethnicity, ancestry, religion, age, sex, (including pregnancy, childbirth and related conditions) sexual orientation, gender, gender identity, marital status, partnership status, disability, genetic information, alienage, citizenship, military or veteran status, unemployment status, or status as a victim of domestic violence/stalking/sex offenses, or any other legally prohibited basis in accordance with federal, state and city laws." Additionally, the memo advised

employees of the name and contact information of the principal EEO professional and provided employees with an electronic link to the agency's EEO Policy.

- The agency's EEO Policy memo did not include consumer credit history as a protected class.  
**Corrective Action Required.**

Note: The agency's EEO Policy memo should be updated and consistent with the agency's EEO Policy. (See § 1.2.)

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.
- ✓ The agency posted on its website an electronic copy of its EEO Policy, *The City University of New York Policies and Procedures on Equal Opportunity, Non-Discrimination, and Against Sexual Harassment*; as well as addenda of the *Policy on Sexual Misconduct* and *Disability Accommodation Procedures*. The EEO Policy included *Procedures for Reporting Discrimination*, a *Charge of Discrimination Form*, and a list of protected classes under *Title VII of the Civil Rights Act of 1964*, as amended, which prohibits discrimination in employment (including hiring, upgrading, salaries, fringe benefits, training, and other terms, conditions, and privileges of employment) on the basis of race, color, religion, national origin, or sex; a list of protected classes under New York City Human Rights Law which “prohibits discrimination based on age (18 and older), race, creed, color, national origin, gender (including gender identity and expression), disability, marital status, partnership status, sexual orientation, alienage or citizenship status, arrest or conviction record, unemployment status, or status of an individual as a victim of domestic violence, sex offenses or stalking” and New York State Human Rights Law which in addition to the above prohibited discrimination based on *military status*, and *predisposing genetic characteristics*.
  - The agency's EEO Policy did not include current contact information for the federal, state and local agencies that enforce laws against discrimination. The EEO Policy also did not include “consumer credit history” as a protected category. **Corrective Action Required.**

**Corrective Action #1:** Include, or attach as addenda to the EEO Policy current contact information for the federal, state and local agencies that enforce laws against discrimination, and an up-to-date list of protected classes under NYC and NYS Human Rights Laws.

**NOTE ON POLICY UPDATES:** Subsequent to the audit period, the following protected categories were added to the New York City's Human Rights Law: “caregiver status” (effective May 4, 2016); and “pregnancy” (enforcement guidance released on May 16, 2016). All EEO policies/flyers and related documents must reflect these updates.

## **II. EEO TRAINING FOR AGENCY:**

**Determination:** The agency is in partial-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.
- ✓ On October 30, 2015, the agency conducted EEO training for managers. The training, entitled “*Equal Employment & Educational Opportunity*” was presented by the principal EEO professional and was attended by 26 employees as indicated by the training log. The training class covered the following topics: *EEO Laws, Protected Classes, Hostile Work Environment, and EEO Investigations*.
  - The agency did not demonstrate that it established and implemented an EEO training plan for new and existing employees (exclusive of managers) to ensure that all individuals who work within the agency, 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. **Corrective Action Required.**

**Corrective Action #2:** Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency 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.

## **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.
- ✓ The agency’s assessment of its recruitment efforts included data collection and analysis (*Annual Utilization Analysis Worksheets; Impact Analysis Worksheets; Results of Utilization Annual Placement Goals, Search Authorization Form*); review of recruitment guide and sources; and documentation of the search and hiring process. (See Attachment 2, *Impact Ratio Analysis Worksheets* – September 30, 2015). Additionally, the agency established search committees for each job vacancy recruitment. Documentation of the search and hiring process such as *Search Authorization Form* indicated that the principal EEO professional was involved in each step of the recruitment process; approved each recruitment plan (including advertisement and recruitment



sources used); search committee members and certified that the applicant pool was diverse. The agency's recruitment efforts included the use of general and targeted sources. The agency used online job search engines such as: *CUNYfirst.cuny.edu*; *monster.com/diversity*; *chronicle.com*; *indeed.com*; *blackperspective.com*; *hispanic-today.com*; *womenforhire.com*; and *diversityworking.com*.

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 opportunity within the agency and determine what, if any, corrective actions are required to correct deficiencies.
- ✓ Outlook meeting invitations indicated monthly meetings were scheduled with the principal EEO professional, HR Professional, and General Counsel from March 2015 – December 2015 discussing EEO, HR and workplace issues. The principal EEO professional collected and interpreted statistical information, an Impact Ratio Analysis (based on the information contained in documents known as a "*Personnel Activity Table and Applicant Data Recruitment Documentation*") to prepare the agency's Annual Affirmative Action Plan (AAP) and interacted with the HR Professional during the recruitment process and the selection of the search committee (responsible for recruitment and hiring of employment candidates) for each job vacancy.
- The agency did not demonstrate that the annual number of EEO complaints were reviewed 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 to correct deficiencies. **Corrective Action Required.**

**Corrective Action #3:** Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's annual number of EEO complaints 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 did not demonstrate that it assessed the manner in which candidates were selected for employment, to determine whether there was any adverse impact upon any particular racial, ethnic, disability, or gender group. In addition, the agency reported underrepresentation of women and minorities in: CUNY Administrative Assistants, Custodial Assistants, Administrative II, Office/Secretarial Assistant, College Lab Technician, Accounting,

Media/Print Shop, Skilled Crafts, and Campus Safety. The agency identified these titles as key feeders of underrepresentation for the following titles: CUNY Administrative Assistants: CUNY Administrative Assistants; Office/Secretarial Assistant: CUNY Office Secretarial Assistant; Accounting: Finance Accountant, Purchasing Agent; Media/Print Shop: Print Shop Coordinator, Print Shop Assoc., Print Shop Assist., Graphic Designer; Skilled Crafts: Motor Vehicle Mechanic, Carpenter, Laborer, Maintenance Worker, Oiler, Painter, Plumber, Thermostat Repairer, Locksmith, High Pressure Plant Tender, Electrician, Electrician Helper, Stationary Engineer; Campus Safety: Campus Safety Sergeant, Campus Security Specialist; Custodial Assistants: Custodial Assistant. **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 agency identified the following titles that indicated underrepresentation of women and minorities, which may include *discretionary titles*: CUNY Administrative Assistants, Custodial Assistants, Administrative II, Office/Secretarial Assistant, College Lab Technician, Accounting, Media/Print Shop, Skilled Crafts, and Campus Safety.
  - The agency did not demonstrate whether the aforementioned titles were discretionary or provide the plan to conduct targeted recruitment for these titles. **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 CUNY Central, Civil Service Unit 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.

- Although the agency reported underrepresentation of women and minorities in: CUNY Administrative Assistants, Custodial Assistants, Administrative II, Office/Secretarial Assistant, College Lab Technician, Accounting, Media/Print Shop, Skilled Crafts, and Campus Safety, which may include *civil service* (list) titles, the agency did not demonstrate that it reviewed the competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) or that it worked with the CUNY Central, Civil Service Unit, for the groups where underrepresentation existed to ensure that these standards were updated, job-related and required by business necessity. **Corrective Action Required.**

**NOTE:** The agency reported that the Civil Service testing, selection processes were handled by the CUNY Central, Civil Service Unit.

**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 the CUNY Central, Civil Service Unit 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).
- ✓ The agency ensured that personnel involved in recruiting and hiring were provided with a structured interview training guide. The Search Committees consisted “*of individuals who have enough knowledge and skills to effectively evaluate candidates,*” as indicated in the structured interview training guide entitled, “*CUNY Search Committee Guide, Resources for conducting a successful search.*” Additionally, to ensure uniformity in conducting interviews the guide included a search process checklist with guiding principles, search planning, candidate screening, interviewing and selection, and closing the search process. The guide also provided that any questions about search procedures should be directed to the Chief Diversity Officer.
10. Promote employees’ awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
  - The agency did not demonstrate that it promoted employee’s awareness of opportunities for promotion and transfer within the agency, and ensured that employees were considered for such opportunities. **Corrective Action Required.**



**Corrective Action #7:** Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.

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

- ✓ During the period in review, the agency advertised several vacant positions such as: *Academic Advisor –Freshmen Services; Superintendent of Buildings and Grounds; HR Diversity Program Manager; Finance Budget Manager; and Academic Student Support Program Specialist*. The job vacancy notices included the EEO tagline “*CUNY encourages people with disabilities, minorities, veterans and women to apply. At CUNY, Italian Americans are also included among our protected groups. Applicants and employees will not be discriminated against on the basis of any legally protected category, including sexual orientation or gender identity. EEO/AA/Vet/Disability Employer.*”

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.

- ✓ The agency reported that during the period in review, all applications were received through CUNY's Central Applicant tracking system, *CUNYfirst*. *CUNYfirst* captured: *position, applicant name, identification number, applicant type, disposition, resume, last updated, and take action tab*, of each applicant for the positions listed above (see § III. 11). In addition to *CUNYfirst*, the agency also maintained a *Search Documentation Data Form*, which included a breakdown of self-identification surveys of applicants on *ethnicity, gender, race, interviewers' names, disposition and recruitment source*.

- Neither, the agency's tracking system nor the *Search Documentation Data Form* captured *disability or veteran status*. **Corrective Action Required.**

**Corrective Action #8:** Use and maintain an applicant/candidate log or tracking system which, in addition to the above, includes the *disability or veteran status* 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 demonstrate that it designated 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 #9:** 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.
- ✓ The Human Resources Professional ensured new employees had access to the online version of the agency's EEO policies, and were advised of their rights and responsibilities under such policies and the discrimination complaint procedures during new hire orientation.
  - The agency did not demonstrate the Human Resources Professional ensured employees had access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; involved the principal EEO professional in EEO-related matters; and promptly consulted with the principal EEO professional if informed of, or suspected that a violation of the EEO Policy has occurred. **Corrective Action Required.**

**NOTE:** The agency reported that the Section 55-a program is administered within CUNY Central, Civil Service Unit.

**Corrective Action #10:** Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; and that the Human Resources Professional 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.

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

**Determination:** The agency is in **partial-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 did not demonstrate that it established a procedure for providing information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures in alternative formats (i.e., large print, audio tape and/or Braille) upon request to employees and applicants for employment with disabilities. **Corrective Action Required.**

**NOTE:** The agency reported no requests for alternative format were made during the audit period.

**Corrective Action #11:** 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.

16. Document reasonable accommodation requests and their outcomes.

- ✓ The agency's Office of Human Resources documented reasonable accommodation requests and their outcomes, using the *Request for a Reasonable Accommodation* form and *Disability Documentation Form* included in the *Disability Accommodation Procedures*. The agency's *Accommodation Request Case* list for 2015 included the following information: *case number, name, date, issue/synopsis, work to be done/ work done, and disposition*.

## **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, state, and federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination complaints.

- ✓ During the period in review, the agency's Chief Diversity Officer was the principal EEO professional. The President's October 2015 memo *Reaffirmation of Commitment to Diversity & Affirmative Action*, informed employees of the principal EEO professional's name, contact information and location. The principal EEO professional completed the following training New York CLE in 2015: *Diversity & Inclusion in Law Practices*; New York Certificate of Attendance training in *Higher Education Law 2014: Current Issues and Recent Developments*; *14<sup>th</sup> Annual Municipal Law Institute*; and *2015 Federal Contractor Compliance: Are You Ready for the OFCCP?*.

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 principal EEO professional (referenced above) was the only member of the agency's EEO unit.

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.

✓ During the audit period, the principal EEO professional reported directly to the agency head in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. This reporting relationship was indicated in the agency's organizational chart.

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.

✓ Calendar meeting invitation between August and December 2015 indicated bi-weekly meetings were scheduled with the agency head (College President) and the principal EEO professional.

➤ The agency did not demonstrate that it documented decisions that impact the administration and operation of the EEO program. **Corrective Action Required.**

**Corrective Action #12:** 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 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 audit period, performance evaluations for employees (managers/supervisors) were conducted by the Human Resources professional. The agency's evaluation list for each year tracked the names of employees evaluated by department and the evaluation period.

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).

✓ During the period in review, the managerial performance evaluation's standards for EEO stated: *"Inclusiveness – Diversity: Shows respect for people and their differences; promotes fairness and equity; engages the talents, experiences and capabilities of others; fosters a sense of belonging; works to understand the perspectives of others; creates opportunities for access and success."*

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

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

23. Submit to the EEPD an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports<sup>2</sup> (up to 30 days following each quarter) on efforts to implement the plan.

- The agency did not submit to EEPD an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports<sup>2</sup> (up to 30 days following each quarter) on efforts to implement the plan. **Corrective Action Required.**

**Corrective Action #13:** Submit to the EEPD 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 EEPD'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 EEPD'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 EEPD's audit/analysis and re-emphasizing the agency head's commitment to the EEO program.

**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).

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<sup>2</sup>Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.



(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 black ink, appearing to read "Eloha Shehu", written over a horizontal line.

Eloha Shehu, EEO Program Analyst

Approved by,

A handwritten signature in blue ink, appearing to read "Charise L. Terry", written over a horizontal line.

Charise L. Terry, PHR  
Executive Director

c: Victoria Ajibade, Esq., Chief Diversity Officer



**Appendix - 1**  
Kingsborough Community College  
Statistical Profile

**Attachment 13: Statistical Profile of Agency Workforce**  
**Beginning and End of Audit Period**

Agency: Community College - Kingsborough

# Employees	Beginning of Audit Period	End of Audit Period
	<u>7/1/2013</u>	<u>12/31/2015</u>
	<u>Non-Pedagogical</u>	<u>Non-Pedagogical</u>

Male	285	291
Female	289	317

White	260	271
Black	174	192
Hispanic	102	103
Asian	35	37
Native American	0	0
Unknown	0	0
Two or More	3	5

Total # of Employees	574	608
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**Appendix - 2**  
Kingsborough Community College

Impact Analysis  
(July 2013-December 2015)

Kingsborough Community College

## FEMALES AND MINORITIES

## HIRES ANALYSIS

Kingsborough Community College

PART A

September 30, 2015

JOB AREAS/ CATEGORY		MINORITY						FEMALE						PERCENTAGE OF HIRES			
		HIRES				TOTAL		HIRES									
		NON MIN		MIN				MALE		FEMALE		TOTAL		% of non-min hires	% of min hires	% of male hires	% of female hires
#	TOTAL	2090	73	4697	61	6787	134	3683	55	3104	79	6787	134	3.5%	1.3%	1.5%	2.5%
1	Exec./Adm./Mngrl.	251	4	541	8	792	12	319	5	473	7	792	12	1.6%	1.5%	1.6%	1.5%
2	Faculty	648	41	629	18	1277	59	631	23	646	36	1277	59	6.3%	2.9%	3.6%	5.6%
3	Professional/Non-Fac.	714	10	1659	9	2373	19	711	2	1662	17	2373	19	1.4%	0.5%	0.3%	1.0%
4	Secretarial/Clerical	10	9	3	2	13	11	3	2	10	9	13	11	90.0%	66.7%	66.7%	90.0%
5	Techn./Paraprofessional	271	3	911	8	1182	11	1024	6	158	5	1182	11	1.1%	0.9%	0.6%	3.2%
6	Skilled Trades	120	3	310	5	430	8	401	8	29	0	430	8	2.5%	1.6%	2.0%	0.0%
7	Service/Maintenance	76	3	644	11	720	14	594	9	126	5	720	14	3.9%	1.7%	1.5%	4.0%
	TOTAL	2090	73	4697	61	6787	134	3683	55	3104	79	6787	134	3%	1%	1%	3%

## IRA WORKSHEET FOR NON-MIN VS MIN % OF HIRES

September 30, 2015

JOB AREAS/ CATEGORY		RATE FOR UNFAV. GROUP		RATE FOR FAV. GROUP		OVER ALL RATE		ONLY IF IRA UNDER 0.8				* IRA LESS THAN 0.8 AND DIF >=1 PERSON		FISHER TEST					
								** IRA LESS THAN 0.8 AND STD DEV>=2				FISHER'S VALUE	NON-MIN APPLICANTS	NON-MIN HIRED	MIN APPLICANTS	MIN HIRED	FISHER TEST RESULT NOTE		
								EXPECT	ACTL	DIF	STD DEV							J	K
#	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q		
1	Exec./Adm./Mngri.	MINORITY	1.5%	NON-MIN	1.6%	0.93													
2	Faculty	MINORITY	2.9%	NON-MIN	6.3%	0.45	4.6%	29	18	11	2.95	*	**	N/A					
3	Professional/Non-Fac.	MINORITY	0.5%	NON-MIN	1.4%	0.39	0.8%	13	9	4	2.15	*	**	N/A					
4	Secretarial/Clerical	MINORITY	66.7%	NON-MIN	90.0%	0.74	84.6%	2	2	0	0.98			0.4231	10	9	3		
5	Techn./Paraprofessional	MINORITY	0.9%	NON-MIN	1.1%	0.79	0.9%	8	8	0	0.34			N/A					
6	Skilled Trades	MINORITY	1.6%	NON-MIN	2.5%	0.65	1.9%	5	5	0	0.61			N/A					
7	Service/Maintenance	MINORITY	1.7%	NON-MIN	3.9%	0.43	1.9%	12	11	1	1.34	*		N/A					
	TOTAL							69	53	16									

## IRA WORKSHEET FOR MALE VS FEMALE % OF HIRES

September 30, 2015

September 30, 2019

JOB AREAS/ CATEGORY		RATE FOR  UNFAV. GROUP		RATE FOR  FAV. GROUP		IRA	OVER ALL RATE	ONLY IF IRA UNDER 0.8				* IRA LESS THAN 0.8 AND DIF >=1 PERSON ** IRA LESS THAN 0.8 AND STD DEV>=2		FISHER'S TEST					
								EXPECT	ACTL	DIF	STD DEV			FISHER'S VALUE	male app	male hires	female app	female hires	FISHER TEST RESULT NOTE
#	A	B		C		D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	Exec./Adm./Mngri.	FEMALE	1.5%	MALE	1.6%	0.94													
2	Faculty	MALE	3.6%	FEMALE	5.6%														
3	Professional/Non-Fac.	MALE	0.3%	FEMALE	1.0%														
4	Secretarial/Clerical	MALE	66.7%	FEMALE	90.0%														
5	Techn./Paraprofessional	MALE	0.6%	FEMALE	3.2%														
6	Skilled Trades	FEMALE	0.0%	MALE	2.0%	0.00	1.9%	0	0	0	0.77			N/A					
7	Service/Maintenance	MALE	1.5%	FEMALE	4.0%														
	TOTAL:							0	0	0									

## PART B

JOB AREAS/ CATEGORY		MINORITY						FEMALE						PERCENTAGE OF PROMOTION			
		PROMOTION						PROMOTION									
		NON MIN		MIN		TOTAL		MALE		FEMALE		TOTAL					
		INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	INCUMBENT	PROMOTED	% of non-min PROMOTED	% of min promoted	% OF MEN promoted	% OF FEMALE promoted
#	TOTAL	512	27	422	11	934	38	434	19	500	19	934	38	5%	3%	4%	4%
1	Exec./Adm./Mngrl.	58	6	65	2	123	8	48	4	75	4	123	8	10%	3%	8%	5%
2	Faculty	253	16	99	3	352	19	158	9	194	10	352	19	6%	3%	6%	5%
3	Professional/Non-Fac.	59	2	87	4	146	6	42	2	104	4	146	6	3%	5%	5%	4%
4	Secretarial/Clerical	55	2	22	1	77	3	12	2	65	1	77	3	4%	5%	17%	2%
5	Techn./Paraprofessional	37	0	22	0	59	0	30	0	29	0	59	0	0%	0%	0%	0%
6	Skilled Trades	21	0	5	0	26	0	26	0	0	0	26	0	0%	0%	0%	0%
7	Service/Maintenance	29	1	122	1	151	2	118	2	33	0	151	2	3%	1%	2%	0%
	TOTAL	512	27	422	11	934	38	434	19	500	19	934	38	5%	3%	4%	4%

JOB AREAS/ CATEGORY		RATE FOR UNFAV. GROUP		RATE FOR FAV. GROUP		IRA		OVER ALL RATE		ONLY IF IRA UNDER 0.8		* IRA LESS THAN 0.8 AND DIF >=1 PERSON		FISHER TEST					
												** IRA LESS THAN 0.8 AND STO DEV>=2		FISHER'S VALUE	NON-MIN INCUM	NON-MIN PRMT	MIN INCUM	MIN PRMT	FISHER TEST RESULT NOTE
										EXPECT	ACTL	DIF	STD DEV						
#	A	B		C		D	E	F	G	H	I	J	K	L	M	O	P	Q	
1	Exec./Adm./Mngl.	MINORITY	3.08%	NON-MIN	10.34%	0.30	6.50%	4	2	2	1.63	*		N/A					
2	Faculty	MINORITY	3.03%	NON-MIN	6.32%	0.48	5.40%	5	3	2	1.23	*		N/A					
3	Professional/Non-Fac.	NON-MIN	3.39%	MINORITY	4.60%														
4	Secretarial/Clerical	NON-MIN	3.64%	MINORITY	4.55%														
5	Techn./Paraprofessional	N/A		N/A															
6	Skilled Trades	N/A		N/A															
7	Service/Maintenance	MINORITY	0.82%	NON-MIN	3.45%	0.24	1.32%	1	1	0	1.11			N/A					
TOTAL								10	6	4									

								ONLY IF IRA UNDER 0.8				FISHER TEST					
JOB AREAS/ CATEGORY		RATE FOR		RATE FOR		IRA	OVER ALL RATE										
		UNFAV. GROUP		FAV. GROUP				EXPECT	ACTL	DIF	STD DEV	FISHER'S VALUE	male incum	male prmt	female incum	female prmt	FISHER TEST RESULT NOTE
#	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q
1	Exec./Adm./Mngl.	FEMALE	5.3%	MALE	8.3%	0.640	6.5%	4	4	0	0.66			N/A			
2	Faculty	FEMALE	5.2%	MALE	5.7%	0.905											
3	Professional/Non-Fac.	FEMALE	3.8%	MALE	4.8%	0.808											
4	Secretarial/Clerical	FEMALE	1.5%	MALE	16.7%	0.092	3.9%	2	1	1	2.49	*	**	N/A			
5	Techn./Paraprofessional	N/A		N/A													
6	Skilled Trades	N/A		N/A													
7	Service/Maintenance	FEMALE	0.0%	MALE	1.7%	0.000	1.3%	0	0	0	0.75			N/A			
	TOTAL							6	5	1							

## OFFICE OF THE PRESIDENT

August 2, 2016

**Via Email and Hand Delivery**

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

**Re:** Preliminary Determination for Audit: Review, Evaluation and Monitoring of Kingsborough Community College's Employment Practices and Procedures for the Audit Period: July 1, 2013 – December 31, 2015.

Ms. Terry:

I am writing to formally respond to the Commission's Preliminary Determination Audit of Kingsborough Community College's (hereinafter "Kingsborough" or the "College") Employment Practices and Procedures dated July 20, 2016. Specifically, the Commission enumerated 13 Corrective Actions the College should demonstrate that it currently engages in, will enhance and/or implement. Kingsborough responds as follows—

**Section I: Issuance, Distribution and Posting of EEO Policies**

**Corrective Action Section I.1 ("Corrective Action #1):** Include, or attach as agenda to the EEO Policy current contact information for the federal, state and local agencies that enforce laws against discrimination, and an up-to date list of protected classes under NYC and NYS Human Rights Laws.

**College Response:**

- I worked with the Principal EEO Officer, HR Officer and Legal Counsel to update the annual memorandum I disseminated to all College employees reaffirming my commitment to the College's core principles of non-discrimination and affirmative action policies. The memorandum was revised to add information concerning consumer credit history. *See* attachment "A" and the link to revised memo on the College's website:  
<http://www.kbcc.cuny.edu/humanresources/Pages/affirmativeaction.aspx>
- The College's internal EEO complaint intake form was also updated to include "consumer credit history." *See* Attachment "B."



**Corrective Action Section 1.2:** Include current contact information for federal, state, and local agencies that enforce laws against discrimination.

**College Response:**

- The College added the following external EEO agency contact information in the form of link on its Human Resources website under the “Equal Opportunity Compliance and Diversity” header. *See* the link to the external EEO agency contact information on the College’s website: <http://www.kbcc.cuny.edu/EEO/Pages/default.aspx>
- The College added external EEO agency contact information to its hard copy posted Notice of Non-Discrimination/Sexual Misconduct policy. *See* attachment “C.”
- My annual memorandum reaffirming my commitment to the principles of non-discrimination and affirmative action policies was also updated to include information regarding caregiver status and recently enacted rights of pregnant workers in keeping with NYC Human Rights Law (Effective in May 2016). *See* attachment “A” and the link to revised memo on the College’s website: <http://www.kbcc.cuny.edu/humanresources/Pages/affirmativeaction.aspx>

**Section II: EEO Training for Agency**

**Corrective Action Section II.3 (“Corrective Action #2”):** Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency 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.

**College Response:**

- While not conducted within the Commission’s audit prescribed audit period, the College offered several EEO training sessions to its employees in May 2016. The principal EEO Professional and HR Professional are in the process of establishing an extended training schedule to assure that all employees are trained regarding their EEO related rights/responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures in a manner consistent with local, state and federal EEO laws. This may include an investment in an online training system.

**Section III: Employment Practices (Recruitment, Hiring & Promotion)**

**Corrective Action III.5.3 (“Corrective Action #3”):** Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency’s annual number of EEO complaints 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.

#### College Response:

- While the College's EEO Officer, the HR Officer Legal Counsel have routinely scheduled meetings on a monthly basis to review EEO complaints, the College will implement the corrective action recommended, and schedule an annual meeting to review the number of EEO related complaints/concerns from the previous year to determine and memorialize what, if any, corrective actions are required.

**Corrective Action III.6.4 ("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.

#### College Response:

- The College will reach out to Central Office for guidance on how to address corrective action. The College will formalize a proposal to cure this issue.

**Corrective Action III.7.5 ("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.

#### College Response:

- The College will plan the recruitment for each search where there is underutilization and create outreach for each search. The College work with CUNY's Central Office for guidance on how best to implement this corrective action. The College will establish a proposal to cure this issue.

**Corrective Action III.8.6 ("Corrective Action #6"):** 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.

#### College Response:

- The College will plan the recruitment for each search where there is underutilization and create outreach for each search. The College work with CUNY's Central Office for guidance on how best to implement this corrective action. The College will establish a proposal to cure this issue.

**Corrective Action III.10.7 ("Corrective Action #7"):** Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.



#### College Response:

- Attached hereto, please find the following postings (posted on an array of diversity-driven bulletin boards), email blast announcements of job and promotional opportunities through examinations and the KCC Website – Employment Opportunities page. It is the College’s intention that this documentation will satisfy/mitigate this corrective action. *See attachment “D.”*

**Corrective Action III.12.8 (“Corrective Action #8”):** Use and maintain an applicant/candidate log or tracking system which, in addition to the above, includes the *disability or veteran status* 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.

#### College Response:

- The College maintains that we are engaged in this practice through the CUNYFirst system and candidate self-identification. Attached hereto, please find the following screen shots demonstrating that all applicants are asked to self-identify for disability status, veteran status, and what recruitment source apprised them of the job opportunity. It is the College’s hope that this documentation will satisfy/mitigate this corrective action directive. *See attachment “E.”*

### Section IV: Career Counseling

**Corrective Action IV.13.9 (“Corrective Action #9”):** 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.

#### College Response:

- The College has designated a professional, Ms. Gila Rohr, as the “Career Counselor” with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Ms. Rohr is now tasked with reminding employees of the identity/type of guidance available from the Career Counselor annually. The College believes this satisfactorily addresses this corrective action. It is the College’s intention that this action and documentation of Ms. Rohr’s qualifications will satisfy this corrective action directive. *See attachment “F.”*

**Corrective Action IV.13.10 (“Corrective Action #10”):** Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; and that the Human Resources Professional 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.

#### College Response:

- The College ensures that employees have access to information regarding job responsibilities in that employees can contact the Office of Human Resources for a list of their job responsibilities at any time. The Civil Service job description is also available on the CUNY

website. With respect to performance evaluation standards, employees are given a copy of their evaluations, and can have access to the evaluations that are in their personnel files at any time. The performance appraisals have the evaluation standards contained in them.

- The College maintains that it has addressed the availability of examination information in its response to Corrective Action #7 and its attachments.
- Attached hereto, please find training opportunities offered to College employees. The College also submits that it is in compliance with providing employees with access to job postings. Postings are easily found on Kingsborough's website as well as on [www.cuny.edu](http://www.cuny.edu), which encompasses all of the CUNY campuses postings.
- The College's Human Resources Professional routinely meets with the principal EEO Professional on EEO-related matters. Moving forward, the HR and EEO Professional will memorialize these discussions for the purpose of allowing the College to self-evaluate and remediate discrimination/sexual harassment issue and reduce, if not, eliminate barriers to employment at the college related to protected categories. The Human Resources Professional promptly consults with principal EEO Professional if informed of, or suspects a violation of EEO Policy has occurred. The College affirms that it engages in this practice; however, going forward will memorialize this action to conclusively demonstrate the same. *See* attachment "G."

#### **Section V: EEO and Reasonable Accommodations for Employees/Applicants for Employment with Disabilities**

**Corrective Action V.15.11 ("Corrective Action #11):** 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.

##### **College Response:**

- The College will work with Central Office to adopt Commission's Recommendations for corrective action.

#### **Section VI: Responsibility for EEO Plan Implementation-EEO Professionals**

**Corrective Action VI.20.12 ("Corrective Action #12"):** 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.

##### **College Response:**

- The College maintains that it already engages in this practice; however, the College will adopt the Commission's recommendation to memorialize/log this information going forward and will log outcomes to identify systemic issues relates to protected categories.

## **Section VII: Responsibility for EEO Plan Implementation-Supervisors/Managers**

**Corrective Action VII.23.13 (“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.

### **College Response:**

- While the College maintains that the subject Quarterly Report is optional, the College will work with CUNY’s Central Office to adopt Commission’s recommendations for this corrective action.

As Kingsborough’s President, I can assure the Commission that I fully endorse and wholeheartedly support the College’s commitment to the principles of affirmative action, equal opportunity, and diversity. I hope that my responses to the corrective action cited by the EEPC have acceptably addressed the EEPC’s preliminary determinations. Please feel free to contact me with any questions or concerns.

Sincerely,

  
Farley Herzek  
President

Enc./Attachments “A-G”

Cc: Victoria A. Ajibade, Esq., KCC EEO Officer  
Mickie Driscoll, KCC HR Officer  
Julie Block-Rosen, KCC Legal Counsel  
Anne Chamberlain, CUNY Office of Recruitment and Diversity  
Elona Shehu, EEPC EEO Program Analyst





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.  
Agency Attorney/  
Director of Compliance Monitoring

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 615. 8931 fax

**BY MAIL AND EMAIL**

August 11, 2016

Farley Herzek  
President  
Kingsborough Community College  
2001 Oriental Blvd. Room A-228  
Brooklyn, NY 11235-2398

RE: Audit Resolution **#2016/465**: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Kingsborough Community College's Employment Practices and Procedures from July 1, 2013 to December 31, 2015.

Dear President Herzek:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your August 2, 2016 response to our July 20, 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.**

---

<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: AUGUST 2016 TO JANUARY 2017.


**If corrective actions remain:** Your agency's response should indicate what steps your agency has taken, or will take, to implement the corrective actions during the designated period. Documentation which supports the implementation of each corrective action shall be uploaded to TeamCentral, the EEPC's Automated Compliance-Monitoring System. Your agency will be monitored monthly until all corrective actions have been implemented. Instruction on how to access and navigate TeamCentral is attached. Upon your agency's completion of the final corrective action, this Commission requires that your agency upload a final memorandum signed by the agency head which informs employees of the changes implemented pursuant to our audit and re-emphasizes commitment to the EEO program. Upon receipt of the final memorandum, the EEPC will issue a *Determination of Compliance*.

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

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

Thank you and your staff for your continued cooperation.

Sincerely,

  
Charise L. Terry, PHR  
Executive Director

C: Victoria Ajibade, Esq., Chief Diversity Officer

## 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 #7

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

Agency Response: *"...Please find the following postings (posted on an array of diversity-driven bulletin boards), email blast announcements of job and promotional opportunities through examinations and the KCC Website - Employment Opportunities page. It is the College's intention that this documentation will satisfy/mitigate this corrective action."* (Response, Pg. 4.) The agency provided job-postings that were sent via email to employees and posted on the agency's bulletin boards and the agency website.

EEPC Response: The EEPC accepts the documentation provided which demonstrate that the agency implemented corrective action #7.

#### Corrective Action #8

Use and maintain an applicant/candidate log or tracking system which, in addition to the above, includes the *disability or veteran status* 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 College maintains that we are engaged in this practice through the CUNYFirst system and candidate self-identification. ... [T]he following screen shots demonstrat[e] that all applicants are asked to self-identify for disability status, veteran status, and what recruitment source apprised them of the job opportunity."* (Response, Pg. 4.) The agency provided

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

screen shots of the *CUNYFirst* system which enables applicants to self-identify disability status, veteran status, and recruitment source.

EEPC Response: The EEPC accepts the agency's response and attached documentation which demonstrate that corrective action **#8** has been implemented.

### **Monitoring Required**

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

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

Include, or attach as addenda to the EEO Policy current contact information for the federal, state and local agencies that enforce laws against discrimination, and an up-to date list of protected classes under NYC and NYS Human Rights Laws.

Agency Response: *"The College added the following external EEO agency contact information in the form of link on its Human Resources website under the 'Equal Opportunity Compliance and Diversity' header. See the link to the external EEO agency contact information on the College's website: <http://www.kbcc.cuny.edu/EEO/Pages/default.aspx>. The College added external EEO agency contact information to its hard copy posted Notice of Non-Discrimination/Sexual Misconduct policy. [The President's] annual memorandum reaffirming ... commitment to the principles of non-discrimination and affirmative action policies was also updated to include information regarding caregiver status and recently enacted rights of pregnant workers in keeping with NYC Human Rights Law (Effective in May 2016). See ... the link to revised memo on the College's website: <http://www.kbcc.cuny.edu/humanresources/Pages/affirmativeaction.aspx>."* (Response, Pg. 2.) The agency provided a copy of the revised memo posted on the College's website, and documentation of posted contact information for the federal, state and local agencies that enforce laws against discrimination on its College website as well as to its Notice of Non-Discrimination/Sexual Misconduct policy.

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#1**. Documentation which confirms that employees were notified of the up-to-date list of protected classes and the current contact information for the federal, state and local agencies that enforce laws against discrimination will be required during the compliance-monitoring period.

#### **Corrective Action #2**

Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency 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.

Agency Response: *"While not conducted within the Commission's audit prescribed audit period, the College offered several EEO training sessions to its employees in May 2016. The principal EEO Professional and HR Professional are in the process of establishing an extended training schedule*

*to assure that all employees are trained regarding their EEO related rights/responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures in a manner consistent with local, state and federal EEO laws. This may include an investment in an online training system.” (Response, Pg. 2.)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action **#2**. Documentation which verifies implementation will be reviewed during the compliance-monitoring period.

**Corrective Action #3**

Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency’s annual number of EEO complaints 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: *“While the College’s EEO Officer, the HR Officer Legal Counsel have routinely scheduled meetings on a monthly basis to review EEO complaints, the College will implement the corrective action recommended, and schedule an annual meeting to review the number of EEO related complaints/concerns from the previous year to determine and memorialize what, if any, corrective actions are required.” (Response, Pg. 3.)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action **#3**. Documentation which demonstrate the agency conducted an annual review of EEO complaints to identify barriers to equal opportunity within the agency and determine what, if any, corrective actions are required in order to correct deficiencies 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: *“The College will reach out to Central Office for guidance on how to address corrective action. The College will formalize a proposal to cure this issue.” (Response, Pg. 3.)*

EEPC Response: The EEPC recognizes the agency’s commitment to implement corrective action **#4**. Documentation which confirms that the agency conducted an assessment of 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 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 College will plan the recruitment for each search where there is underutilization and create outreach for each search. The College [sic] work with CUNY's Central Office for guidance on how best to implement this corrective action. The College will establish a proposal to cure this issue."* (Response, Pg. 3.)

EEPC Response: The EEPC recognizes the agency's commitment to address corrective action #5. The agency's efforts to address the underrepresentation of protected groups in titles where there is discretion in hiring 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 the CUNY Central, Civil Service Unit 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 College will plan the recruitment for each search where there is underutilization and create outreach for each search. The College [sic] work with CUNY's Central Office for guidance on how best to implement this corrective action. The College will establish a proposal to cure this issue."* (Response, Pg. 3.)

EEPC Response: The EEPC recognizes the agency's commitment to address corrective action #6. The agency's efforts to address the 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 #9**

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 College has designated a ... 'Career Counselor' with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. [The Career Counselor] is now tasked with reminding employees of the identity/type of guidance available from the Career Counselor annually. The College believes this satisfactorily addresses this corrective action. It is the College's intention that this action and documentation of [the Career Counselor's] qualifications will satisfy this corrective action directive."* (Response, Pg. 4.) The agency provided a copy of the Career Counselor's resume.

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#9**. Documentation which verifies that employees received notification of the identity/type of guidance available from the Career Counselor will be required during the compliance-monitoring period.

### **Corrective Action #10**

Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; and that the Human Resources Professional 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.

Agency Response: *"The College ensures that employees have access to information regarding job responsibilities in that employees can contact the Office of Human Resources for a list of their job responsibilities at any time. The Civil Service job description is also available on the CUNY website. With respect to performance evaluation standards, employees are given a copy of their evaluations, and can have access to the evaluations that are in their personnel files at any time. The performance appraisals have the evaluation standards contained in them. The College maintains that it has addressed the availability of examination information in its response to Corrective Action #7....Please find training opportunities offered to College employees. The College also submits that it is in compliance with providing employees with access to job postings. Postings are easily found on Kingsborough's website as well as on [www.cuny.edu](http://www.cuny.edu), which encompasses all of the CUNY campuses postings. The College's Human Resources Professional routinely meets with the principal EEO Professional on EEO-related matters. Moving forward, the HR and EEO Professional will memorialize these discussions for the purpose of allowing the College to self-evaluate and remediate discrimination/sexual harassment issue and reduce, if not, eliminate barriers to employment at the college related to protected categories. The Human Resources Professional promptly consults with principal EEO Professional if informed of, or suspects a violation of EEO Policy has occurred.... Going forward will memorialize this action to conclusively demonstrate the same."* (Response, Pgs. 4-5.) The agency provided documentation of examinations, training opportunities and job postings that were sent to employees during the audit period.

EEPC Response: The EEPC recognizes the agency's efforts to implement corrective action **#10**. The EEPC accepts the agency's response and attached documents which confirm that employees have access to examinations, training opportunities and job postings. Documentation that the Human Resources Professional 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, will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

**Corrective Action #11**

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.

Agency Response: *"The College will work with Central Office to adopt Commission's Recommendations for corrective action."* (Response, Pg. 5.)

EEPC Response: The EEPC recognizes the agency's commitment to implement corrective action **#11**. Documentation which confirms that information regarding employee rights and obligations, and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats will be required during the compliance-monitoring period.

**Corrective Action #12**

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: *"The College maintains that it already engages in this practice; however, the College will adopt the Commission's recommendation to memorialize/log this information going forward and will log outcomes to identify systemic issues relates [sic] to protected categories."* (Response, Pg. 5.)

EEPC Response: Documentation which confirms implementation of corrective action **#12** will be reviewed during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

**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: *"While the College maintains that the subject Quarterly Report is optional, the College will work with CUNY's Central Office to adopt Commission's recommendations for this corrective action."* (Response, Pg. 6.)

EEPC Response: Documentation which confirms implementation of corrective action **#13** will be required during the compliance-monitoring period. The EEPC will provide further guidance at the initiation of the compliance-monitoring period.

Thank you and your staff for your continued cooperation.

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

**RESOLUTION #2016/465:** Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Kingsborough Community College's Employment Practices and Procedures from July 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 of the Kingsborough Community College's Employment Practices and Procedures, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated July 20, 2016, setting forth findings and the following required corrective actions:

1. Include, or attach as addenda to the EEO Policy current contact information for the federal, state and local agencies that enforce laws against discrimination, and an up-to date list of protected classes under NYC and NYS Human Rights Laws.
2. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency 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.
3. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's annual number of EEO complaints 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 the CUNY Central, Civil Service Unit 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. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
8. Use and maintain an applicant/candidate log or tracking system which, in addition to the above, includes the *disability or veteran status* 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.
9. 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.
10. Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; and that the Human Resources Professional 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.
11. 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.
12. 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.



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 August 2, 2016 with documentation of its actions to rectify required corrective actions nos. 7 and 8; 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 August 11, 2016 which agreed and accepted documentation for implementation of the aforementioned corrective actions, and indicated that corrective actions nos., 1-6 and 9-13 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 August 2016 through January 2017, 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 approves issuance of this Final Determination to Farley Herzek, President of the Kingsborough Community College.

Approved unanimously on September 9, 2016.

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

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

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

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

**OFFICE OF THE PRESIDENT**

September 8, 2016

**Via Email and Personal Delivery**

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

**Re:** Audit Resolution #2016/465: Final Determination Pursuant to the Review, Evaluation and Monitoring of Kingsborough Community College's Employment Practices and Procedures from July 1, 2013 to December 31, 2015.

Ms. Terry:

I am writing to formally respond to the Commission's Final Determination Letter Pursuant to the Review, Evaluation and Monitoring of Kingsborough Community College's (hereinafter "Kingsborough" or the "College") Employment Practices and Procedures from July 1, 2013 to December 31, 2015 dated August 11, 2016; specifically, the 11 enumerated Corrective Actions the Commission requires that Kingsborough demonstrate that it currently engages in, will enhance and/or implement. The College responds as follows—

**Monitoring Required<sup>1</sup>**

**Corrective Action #1** Include, or attach as addenda to the EEO Policy current contact information for the federal, state and local agencies that enforce laws against discrimination, and, an up-to date list of protected classes under NYC and NYS Human Rights Laws. *Documentation which confirms that employees were notified of the up-to-date list of protected categories and the current contact information for the federal, state and local agencies that enforce laws against discrimination will be required during the compliance monitoring period.*

**College Response:**

- Enclosed herein, please find documentation in the form of an email entitled "Updates to Equal Employment Protected Categories" dated August 31, 2016, which confirms that all Kingsborough full-time and part-time employees were notified of the up-to-date list of protected categories. The subject email also included current contact information for the federal, state and local agencies that enforce laws against discrimination.

**Corrective Action #2** Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the [College] receive training on unlawful discriminatory practices under local,

<sup>1</sup> The Commission indicated that the assigned compliance-monitoring period is August 2016-January 2017.



state and federal EEO laws; EEO rights and/or responsibilities; discrimination complaint and investigation procedures; prevention of sexual harassment; and reasonable accommodation procedures.

**College Response:**

- The College is vetting established on-line training vendors recognized within the education sector in providing up-to-date, comprehensive, customized on-line EEO training for all Kingsborough full-time and part-time employees. Kingsborough will carefully review the online content to ensure that it meets the College's goal of being in compliance with all local, state and federal EEO rules and regulations. Kingsborough will provide documentation of this effort once the appropriate vendor or other training plan has been identified.

**Corrective Action #3** Ensure that the Principal EEO Professional, HR Professional and General Counsel, review the [College's] annual number of EEO complaints on an annual basis to identify whether there are barriers to equal employment opportunity within the [College] and determine what, if any, corrective actions are required in order to correct deficiencies.

**College Response:**

- Enclosed herein, please find documentation in the form of a memorandum from the Chief Diversity Officer addressed to myself, entitled: "1<sup>st</sup> Annual EEO Self Evaluation and Remediation Meeting (Plan Year August 2015-August 2016)" dated August 25, 2016. This memorandum memorialized the first of annual meetings between the College's Chief Diversity Officer (EEO Professional), the Human Resources Executive Director and Labor Designee, and Legal Counsel (hereinafter, 'the committee.') The committee reviewed the annual number of EEO complaints and formulated a remediation plan which I endorsed.

**Corrective Action #4** Assess the manner in which candidates are selected for employment, to determine whether there was 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.

**College Response:**

- During Kingsborough's 1<sup>st</sup> Annual Self-Evaluation and Remediation Meeting, the committee reviewed its practices regarding the manner in which candidates are selected for employment to determine whether there was any adverse impact upon any particular racial, ethnic, disability or gender group. The College achieved this by reviewing the document enclosed herein, entitled "CUNY Search Committee Guide [version 1.2 August 13]." The aforementioned document outlines the process the College uses to select candidates for employment. The committee indicated that they found nothing within the selection criteria currently being utilized as the cause of underutilization of a particular racial, ethnic, disability or gender group.<sup>2</sup>

**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.

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<sup>2</sup> The College awaits further guidance from the Commission as to any additional documentation the Commission may require to demonstrate this effort regarding corrective action #4.

**College Response:**

- The College has adopted and implemented a practice of identifying underutilized protected groups prior to the Chief Diversity Officer's approval of a request to post a particular job opening. This practice will require the College's Human Resources department to then inform the Chief Diversity Officer of its outreach/advertisement plan to target the identified underutilized group in order to obtain the Chief Diversity Officer's authorization to post. The College intends to document this process via email.<sup>3</sup>

**Corrective Action #6** If women, minorities, or other protected groups are underrepresented in *civil* service (list) titles, review competencies, skills and abilities required (as presented in job vacancy notices and notices of examination) for available positions to ensure that these standard are updated, job-related and required by business necessity. (This includes working with the CUNY Central [Office], Civil Service Unit if applicable). Then 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.

**College Response:**

- CUNY Central posts notices of examinations on its job system and through that the job is automatically sent to a large number of diversity related job boards on the internet. When an eligible list is established, the vacancy is not advertised, as only individuals on the eligible list may be considered for the vacancy. These individuals are contacted by CUNY Central to attend a hiring hall when positions in the particular title need to be filled. The candidates are called to the hiring hall based on the score they have achieved as the civil service laws requires candidates to be selected in rank order for a vacancy, with the individuals with the higher score offered a position before individuals with a lower score may be considered.

**Corrective Action #9** 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. *Documentation which verifies that employees received notification of the identity/type of guidance available from the Career Counselor will be required during the compliance monitoring period.*

**College Response:**

- The College has designated a professional, Ms. Gila Rohr, as the "Career Counselor" with appropriate training, knowledge and familiarity with career opportunities in City government to provide career counseling to employees upon request. Ms. Rohr is tasked with annually reminding all College employees of the identity/type of guidance she provides. Enclosed herein, please find a copy of an email entitled, "New Human Resource Service" dated September 1, 2016. The College maintains that a review of the aforementioned documentation satisfactorily addresses this corrective action. The College will continue to annually notify all employees of this service.

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<sup>3</sup> The College awaits further guidance from the Commission as to any additional documentation the Commission may require to demonstrate this effort regarding corrective action #5.

**Corrective Action #10** Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; and that the Human Resources Professional 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. *Documentation that the Human Resources Professional involves the principal EEO Professional in EEO-related matters; and that the HR Professional promptly consults with the principal EEO professional if informed of, or suspects that a violation of the EEO Policy has occurred, will be required during the compliance monitoring period.*

**College Response:**

- The College's Human Resources Professional routinely meets with the principal EEO Professional on EEO-related matters. Moving forward, the HR and EEO Professional will memorialize these discussions for the purpose of allowing the College to self-evaluate and remediate discrimination/sexual harassment issue and reduce, if not, eliminate barriers to employment at the college related to protected categories. The Human Resources Professional promptly consults with principal EEO Professional if informed of, or suspects a violation of EEO Policy has occurred. The College affirms that it engages in this practice. The College will implement the practice of documenting the same.<sup>4</sup>

**Corrective Action #11** 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. *Documentation which confirms that information regarding employee rights and obligations and the complaint, investigation and reasonable accommodation procedures is made available in appropriate alternative formats will be required during the compliance period.*

**College Response:**

- Kingsborough remains strongly committed to providing reasonable accommodations. I have been informed that Central Office is working to standardize all policies in accessible PDF formats which can be verbally read in Adobe by employees or applicants with disabilities. Kingsborough currently reviews all requests for accommodations. If the College receives a request for the policy in braille, large print or in audio format, the College would address the request on an as needed basis, and explore all options to communicate EEO policy the format requested.

**Corrective Action #12** 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. *Documentation which confirms the implementation of corrective action 12.*

**College Response:**

- The College maintains that it already engages in this practice; however, the College will adopt the Commission's recommendation to memorialize/log this information going forward and will log outcomes to identify systemic issues relates to protected categories.<sup>5</sup>

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<sup>4</sup> The College awaits further guidance from the Commission as to any additional documentation the Commission may require to demonstrate this effort regarding corrective action #10.

<sup>5</sup> The College awaits further guidance from the Commission as to any additional documentation the Commission may require to demonstrate this effort regarding corrective action #13.

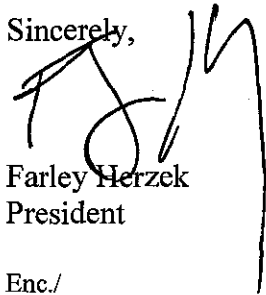
**Corrective Action #13** Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports (up to 30 days following each quarter) on efforts to implement the plan.

**College Response:**

- While the College maintains that the subject Quarterly Report is optional, the College will work with CUNY's Central Office to adopt Commission's recommendations for this corrective action.

As Kingsborough's president, I can assure the Commission that I fully endorse and wholeheartedly support the College's commitment to the principles of affirmative action, equal opportunity, and diversity. I hope that my responses to the corrective action cited by the EEPC have acceptably addressed the EEPC's final determinations. Please feel free to contact me with any questions or concerns.

Sincerely,




Farley Herzek  
President

Enc./

Cc: Victoria A. Ajibade, Esq., KCC Principal EEO Officer  
Mickie Driscoll, KCC Principal HR Officer  
Julie Block-Rosen, Esq., KCC Legal Counsel  
Anne Chamberlain, CUNY Office of Recruitment and Diversity  
Elona Shehu, EEPC EEO Program Analyst

## OFFICE OF THE PRESIDENT

To: Kingsborough Campus Community

From: President – Farley Herzek 

Date: February 15, 2017

Re: Kingsborough EEO Policy/Procedure

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Kingsborough is committed to preventing illegal discrimination by ensuring that all employees are aware of their rights and obligations under the EEO policy, by maintaining fair employment practices for all of our employees, and by encouraging a work environment that tolerates and appreciates differences among employees. All personnel should work together to maintain an atmosphere of appreciation for the diversity reflected in our staff.

Although I am pleased with our accomplishments, I would like to remind you that Kingsborough's program contains the following requirements:

- Managers and supervisors must conduct annual performance evaluations with staff to reaffirm their commitment to the College's EEO policy and to discuss the right of employees to file EEO complaints with the College's Chief Diversity Officer, Victoria A. Ajibade, Esq.
- All managers and supervisors involved in conducting employment interviews must be charged in keeping with the guidelines set forth in CUNY's Search Committee Guidelines.
- Gila Rohr, an experienced manager within the College's Office of Human Resources, is the College's Career Counselor, and will provide career counseling to employees who request it. Her office is located at the Administration Building, Room A-209. Her telephone number is (718) 368-5435. Employees interested in receiving career counseling should make an appointment.

I encourage all employees to access the resources available with Kingsborough and to address any concerns you have with Victoria A. Ajibade, the College's Chief Diversity Officer/Principal EEO Officer at (718) 368-6896 or AskOEO@kbcc.cuny.edu.



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

**RESOLUTION #2016AP/465C-34:** Determination of **Compliance** (Monitoring Period Required) by the Kingsborough Community College with the Equal Employment Practices Commission's required corrective actions pursuant to the Review, Evaluation and Monitoring of the Employment Practices and Procedures from July 1, 2013 to 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 EEPAC 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 Kingsborough Community College (KCC) EEO Program, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated July 20, 2016, setting forth findings and the following required corrective actions:

1. Include, or attach as addenda to the EEO Policy current contact information for the federal, state and local agencies that enforce laws against discrimination, and an up-to date list of protected classes under NYC and NYS Human Rights Laws.
2. Establish and implement an EEO training plan for new and existing employees to ensure that all individuals who work within the agency 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.
3. Ensure that the principal EEO Professional, HR Professional and General Counsel, review the agency's annual number of EEO complaints 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 the CUNY Central, Civil Service Unit 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. Promote employees' awareness of opportunities for promotion and transfer within the agency, and ensure that employees are considered for such opportunities.
8. Use and maintain an applicant; candidate log or tracking system which, in addition to the above, includes the disability or veteran status 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.
9. 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.
10. Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; and that the Human Resources Professional 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.
11. Ensure that employees have access to information regarding job responsibilities, performance evaluation standards, examinations, training opportunities and job postings; and that the Human Resources Professional 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.
12. 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.
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 KCC submitted its response to the EEPC's Preliminary Determination letter, on August 2, 2016, with documentation of its actions to rectify required corrective actions #7 and 8, 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 August 11, 2016, which agreed and accepted documentation for implementation of the aforementioned corrective actions, with corrective actions #1 - 6 and 9 - 13, remaining;

**Whereas**, the KCC submitted its response to the EEPC's final determination letter, on September 9, 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 remaining corrective actions from August 2016 through January 2017 with no extension of the monitoring period;

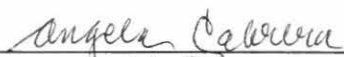
**Whereas**, at the EEPC's request pursuant to Section 815.a.(15) of the New York City Charter, the KCC submitted a copy of the agency head's memorandum to staff dated February 16, 2017 which outlined the corrective actions implemented in response to the EEPC's audit and reiterated his commitment to 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 KCC 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 a Determination of Compliance to the Farley Herzek, President of the Kingsborough Community College.

Approved unanimously on February 16, 2017.

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

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

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

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





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

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 615. 8931 fax

BY MAIL AND EMAIL

February 16, 2017

Farley Herzek  
President  
Kingsborough Community College  
2001 Oriental Blvd. Room A-228  
Brooklyn, NY 11235-2398

Re: Resolution #2016AP/465C-34: Determination of Agency  
Compliance

Dear President Herzek:

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 Kingsborough Community College. This Commission has determined that the Kingsborough Community College 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 EEO Officer Victoria Ajibade, Esq. for the cooperation extended to the EEPC during the compliance-monitoring period.

Sincerely,

A handwritten signature in black ink that reads "Malini Cadambi Daniel". The signature is written in a cursive style with a large, stylized "M" and "C".

Malini Cadambi Daniel  
Commissioner

c: Victoria Ajibade, Esq., Chief Diversity Officer  
Judith Garcia Quiñonez, Esq., Executive Agency Counsel



*This*

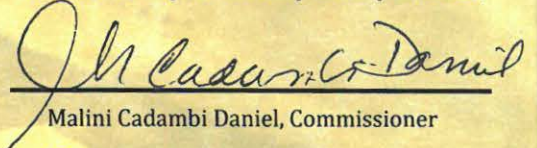
# *Determination of Compliance*

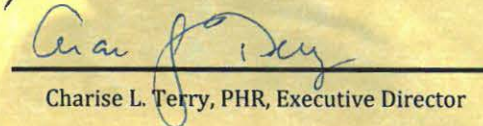
*is issued to the*

## *Kingsborough Community College*

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

On this 16<sup>th</sup> day of February in the year 2017,

  
Malini Cadambi Daniel, Commissioner

  
Charise L. Terry, PHR, Executive Director

*In care of President Farley Herzeke and  
Chief Diversity Officer Victoria Ajibade, Esq.,*