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**BY MAIL AND EMAIL**

September 27, 2018

Ruben Diaz, Jr.  
Borough President  
Office of the Bronx Borough President  
851 Grand Concourse, Room 301  
Bronx, New York 10451

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Office of the Bronx Borough President's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Borough President Diaz:

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 sexual harassment prevention and response practices for the period covering January 1, 2016 to December 31, 2017.

Chapter 36, Section 831(d)(5) of the New York City Charter empowers this Commission to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for women and minority employees and applicants seeking employment. Sections 831(d)(2) and 832(c) authorize this Commission to make a determination that any agency's plan, program, procedure, approach, measure or standard does not provide equal employment opportunity, require appropriate corrective action and monitor the implementation of the corrective action it prescribes.

The Office of the Bronx Borough President, 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 sexual harassment prevention and response practices, 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 that 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; 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 that 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 the collection and analysis of the documents, records and data the agency provides in response to the document and information request; responses to the *EEPC Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, review of the agency's *Annual EEO Plans*, *Quarterly EEO Reports* and analysis of *Citywide Equal Employment Database System* (CEEDS) reports.

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, and 55-a Program Coordinators) and others involved in EEO program administration, such as the Principal Human Resources Professional, are given a three-week deadline to complete and return 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**

The New York City Charter gives the Bronx Borough President the authority to work with the Mayor in preparing the annual executive budget submitted to the City Council, to propose borough budget priorities directly to the Council, and to review and comment on major land use decisions. The agency monitors the administration of city services and engages in strategic planning for the economic development of the borough. The Bronx Borough President's Office houses the borough's Topographical Bureau, which is responsible for maintaining the borough's official maps,

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

and assigning street addresses.<sup>2</sup> Additionally, the agency is responsible for monitoring the delivery of city services, to discover trends and identify deficiencies. It is also the agency's responsibility to coordinate the Borough President's response to catastrophic occurrences and emergencies in the Bronx.<sup>3</sup>

At the end of the period in review, the agency's headcount was 53 (CEEDS Report: *Workforce Composition Summary*, attached as 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 Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
  - The agency did not issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment during the period in review. **Corrective action required.**

**NOTE:** Subsequent to the period in review, on April 20, 2018, the Borough President's "*Joint Memorandum: Agency Head's 2018 Statement against Sexual Harassment and Statement of Discrimination/Sexual Harassment Investigation Complaint Procedure*" was issued via email to all staff. The memorandum stated that "[e]mployees are hereby once again notified that the Citywide Policy regarding "Sexual Harassment" is incorporated into the policies of the Office of the Bronx Borough President". The memorandum provided the definition of sexual harassment, and instructions on where and how to file a complaint.

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 Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

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<sup>2</sup> Borough President – Bronx. Green Book. (2018). Retrieved September 6, 2018, from <http://a856-gbol.nyc.gov/GBOLWebsite/GreenBook/Details?orgId=2853>.

<sup>3</sup> Borough Operations. Bronx Borough President Ruben Diaz Jr. (2018). Retrieved September 6, 2018, from <http://bronxboropres.nyc.gov/borough-operations/>.

- ✓ The agency reported that its *Equal Employment Opportunity* policy (EEO Policy) was posted on the employee bulletin board located in the personnel office for the duration of the period in review. The policy included sections on sexual harassment (that defined sexual harassment, unwelcome conduct, and behaviors that violate the City's sexual harassment policy); discrimination complaint procedures (that included the a list of protected classes, and where to file a complaint, including the names and contact information for the agency's EEO Professionals); other places where a complaint of discrimination can be filed (that listed the names, addresses and phone numbers of the city, state, and federal agencies that investigate claims of employment discrimination); and the statutory time period for the filing of charges of discrimination. The agency also reported that its EEO Policy was included as part of the agency's *New Hire Package* provided to new employees.
- The agency did not demonstrate that its EEO Policy was distributed to all employees during the period in review. Furthermore, the agency's EEO Policy did not include the following as part of its uniform and responsive procedures for investigating complaints: a requirement to issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office; a requirement that in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, to specify in the complaint file the reason for the delay, and a projected timeframe for completion of the report, and notify the complainant and respondent of the delay; and a requirement that the complainant and respondent be notified in writing when the investigation by the EEO Professional has been transferred because of the filing of an external complaint. The agency's EEO Policy also did not include an up-to-date list of protected classes. Specifically, the agency's EEO Policy did not include *pregnancy, salary history, sexual orientation, unemployment status, or status as a veteran or active military service member* as classes protected from employment discrimination. **Corrective action required.**

**Corrective Action #1:** 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 Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

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

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

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

- The agency did not establish or implement a training plan for new and existing employees to ensure that all individuals who work within the agency receive training on the prevention of sexual harassment or discrimination complaint and investigation procedures. **Corrective action required.**

**NOTE:** Subsequent to the period in review, on July 18, 2018, the New York City Department of Citywide Administrative Services, hereinafter referred to as “DCAS”, deployed its mandatory *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* eLearning Course. Certificates of completion confirmed that all agency employees, including managers and supervisors, completed the computer based training as of August 23, 2018.

### **III. COMPLAINT & INVESTIGATION PROCEDURES**

**Summary of Complaint Activity:** The Office of the Bronx Borough President reported that 1 internal and 0 external complaints<sup>4</sup> were filed during the period in review. In response to the EEPC's request, the agency submitted a copy of the internal EEO complaint file, which will herein be referred to as EEO Complaint file No. 1. The following findings are based on the examination of the complaint file, as well as documents and forms submitted, and, wherever applicable, the agency's policies and procedures are used to measure compliance with the standard.

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

4. Include in the complaint file a completed *Complaint Intake Form*, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.
- ✓ EEO Complaint file No. 1 included a completed *Office of the Bronx Borough President-Intake Form*, which included the following fields: *the basis of discrimination, name, title and department of the person you believed discriminated against you, when did the alleged discrimination happen, where did the alleged discrimination happen, were there witnesses for the discrimination, have you filed a complaint about the alleged discrimination with any of the following agencies . . . , what corrective action do you want taken, and description of alleged unlawful discrimination.*

**NOTE:** The agency's complaint intake form contained an incomplete list of protected classes. The form should be updated to include *pregnancy, salary history, unemployment status, and status as a veteran or active military service member.*

5. Provide the option to file a complaint anonymously.
- ✓ The *How To File An EEO Complaint* section of the agency's EEO Policy set forth the following, “[e]mployees who wish to discuss a problem concerning discrimination without revealing their

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<sup>4</sup> The one complaint was based on claims of sexual harassment.

*identity may do so by telephoning the EEO Officer. In such cases the EEO Officer will provide counseling and take such follow-up action as may be appropriate."*

6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.
- ✓ EEO Complaint file No. 1 contained a copy of the notice of the complaint served on the respondent. The notice of complaint set forth the respondent's right to "...respond in writing to the allegations contained in this complaint," and "the right to be accompanied by a representative of your choice."
7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

NOTE: The agency reported no internal complaint/mediation was terminated, withdrawn or resolved by agreement of the parties or EEO Office. As such, the agency's EEO Policy was used to measure compliance with this standard. The EEO Policy did not direct that the agency issue or maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office (see § I.2 for associated corrective action).

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
  - EEO Complaint file No. 1 did not contain notes of words spoken and facts provided, during each interview. **Corrective action required.**

**Corrective Action #2:** Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.
- ✓ The *EEO Complaint Final Investigative Report* for EEO Complaint file No. 1 was issued within 90 days of the date the complaint was filed. Documents within the complaint file indicate that the complaint investigation commenced shortly after the date the complaint was filed.
10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

NOTE: Because EEO Complaint file No. 1 contained a conclusive report that was issued within 90 days, the agency's EEO Policy was used to measure compliance with this standard. The EEO Policy did not require, in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, that the complaint file contain a reason for the delay and a projected time frame for completion of the report. The EEO Policy also did not require that the complainant and respondent be notified of the delay (see § 1.2 for associated corrective action).

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.
  - ✓ The *EEO Complaint Final Investigative Report* for EEO Complaint No. 1 captured the *Statement of Basis of Complaint, Summary of History of Complaint, Finding of Fact, Statement of Response, Opinions, Determination, Conclusion and Recommendations* and was signed by the Chief of Staff (a direct report to the Borough President).
12. Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.
  - ✓ The agency reported the complaint files were maintained in the principal EEO Professional's secured office in a locked file cabinet accessible to the agency head and General Counsel upon request.
13. Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.
  - ✓ The *EEO Complaint Final Investigative Report* for EEO Complaint No. 1 contained the following signed acknowledgement by the Chief of Staff, *"the recommendations meet with my approval and will be adopted."*

NOTE: The section of the agency's EEO Policy entitled, *What Happens When a Complaint is Filed*, stated "[t]he Bronx Borough President will review the EEO Officer's report and take any corrective action that he deems appropriate." However, the *EEO Complaint Final Investigative Report* required the Chief of Staff's review/acknowledgement. This requirement in the *EEO Complaint Final Investigative Report* is inconsistent with the investigation procedures outlined in the agency's EEO Policy. The agency should ensure that its practices are consistent with its EEO Policy.

14. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
- ✓ EEO Complaint file No. 1 contained copies of notices sent to the complainant and respondent that stated the outcome of the complaint investigation.
15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.
- ✓ EEO Complaint file No. 1 contained a written determination of its outcome and corrective action(s) taken as a result by way to the *EEO Complaint Final Investigative Report*.
16. Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

NOTE: Because the investigation by the EEO Professional was not transferred due to the filing of an external complaint, the EEO Policy was used to measure compliance with this standard. The EEO Policy did not include a directive that the complainant and respondent be notified in writing when the investigation by the EEO Professional is transferred because of the filing of an external complaint (see § 1.2 for associated corrective action).

17. Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.
- ✓ The agency established and utilized a *Complaint Log* for tracking and monitoring complaints that captured: *complainant, respondent, basis of complaint, department unit, date filed, duration of EEO complaint process, determination/disposition, and completion date*.
18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.
- ✓ Calendar invites indicate that during the period in review, the General Counsel and principal EEO Professional met one-on-one in July, August and October of 2017. Meeting minutes indicate that the General Counsel worked with the principal EEO Professional to determine the agency's response to a sexual harassment complaint and to discuss updates to the agency's EEO policy and complaint procedures.

NOTE: The agency reported no external complaints were filed during the audit period; therefore, the General Counsel's responsibility to inform the principal EEO Professional when external complaints or litigation involving sexual harassment are brought against the agency, and to investigate and respond to external complaints, could not be measured for the period in review.

#### **IV. ANNUAL REVIEW OF PRACTICES, POLICIES AND PROGRAMS**

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

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
- ✓ During the period in review, the principal EEO Professional worked with the General Counsel to implement the agency's EEO policy and procedures pertaining to its responses to sexual harassment complaints (see § III.18).

NOTE: Subsequent to the period in review, in April 2018, the agency reported that the General Counsel and principal EEO Professional collaborated to update the agency's EEO Policy. The two versions of the EEO policy submitted to the EEOC indicate that the *Disabilities* section was eliminated and that *caregiver status* and *consumer credit history* were added to the policy as classes protected from employment discrimination.

- The agency did not demonstrate that the principal EEO Professional, HR Professional, and General Counsel reviewed the agency's employment practices, policies and programs on an annual basis to identify whether there were barriers to employment opportunities that may be related to sexual harassment and determine what, if any, 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 number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

#### **V. RESPONSIBILITY FOR IMPLEMENTATION - EEO PROFESSIONALS**

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

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained 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 and sexual harassment complaints.

- ✓ The EEO Policy stated that the principal EEO Professional, who was appointed in 2004, was responsible "*for the handling of all EEO complaints.*" The principal EEO Professional earned certificates of completion from the DCAS Citywide Training Center (CTC) for the following courses: *EEO Complaint Procedural Guidelines Launch (2016)*, *EEO Investigative Workshop (2017)*, and *Reasonable Accommodation Procedural Guidelines (2017)*. In addition, the principal EEO Professional received a certificate of completion from the DCAS Diversity & EEO Office for *Equal Employment Opportunity (EEO) Computer Based Training (2018)*.
21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.
- ✓ During the period in review, the principal EEO Professional utilized DCAS's continuing education, training and professional development opportunities (see § V.20 for training participation details). The principal EEO Professional's support staff included one part-time EEO Counselor, who was responsible for responding to inquiries from staff, providing EEO counseling, assisting the principal EEO Professional on EEO matters, and assisting the principal EEO Professional and/or General Counsel with investigations, as requested.
22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures and know how to carry out their responsibilities under the EEO Policy.
- ✓ The agency designated two EEO Professionals (the principal EEO Professional and a part-time EEO Counselor) for its 53 employees, who were located in one office location. The part-time EEO Counselor (the Director of IT) received certificates of completion for *Basic Training for Equal Employment Opportunity Representatives (2009)* and *Equal Employment Opportunity (EEO) Computer Based Training (2018)* from DCAS' Division of Citywide Equal Employment Opportunity (currently the Office of Citywide Equity and Inclusion).
23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.
- ✓ Meeting minutes indicate that, during the period in review, the General Counsel worked with the principal EEO Professional to determine the agency's response to a sexual harassment complaint and to discuss updates to the agency's EEO policy and complaint procedures, specifically the addition of *caregiver status*, and *consumer credit history* as classes protected from employment discrimination.

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

✓ The principal EEO Professional's responsibilities during the period in review, as outlined in the *Task and Standards* submitted, were to implement EEO Policies and complaint procedures; investigate and prepare written reports and responses to discrimination complaints; work with the General Counsel on EEO matters; counsel employees, supervisors, and managers on EEO Policy and procedures; coordinate computer-based EEO trainings for staff; report sexual harassment complaints in the DCAS complaint tracking system; and maintain confidential EEO files. In addition the agency reported that the principal EEO Professional was also responsible for supervising the activities of the EEO Counselor and ensuring that policies against sexual harassment and the agency's complaint procedures were distributed to employees and posted on the bulletin board. The agency reported that although there were no requests for EEO or sexual harassment policies in alternative formats during the period in review, these documents were available in large print.

25. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

✓ The agency's organizational chart indicated that during the period in review, the principal EEO Professional reported to the Chief of Staff (a direct report to the Borough President) for EEO responsibilities. Furthermore, the principal EEO Professional's *Task and Standards* for the period in review also stated that the principal EEO professional "*reports to the Chief of Staff in all EEO Matters*".

NOTE: The section of the agency's 2018 EEO Policy entitled, *Where to File*, stated, "...the Office of the Bronx Borough President's EEO Officer is responsible for the handling of all EEO complaints. She reports directly to the Borough President about the EEO matters." The agency should ensure that its organizational chart and *Tasks and Standards* are consistent with the EEO Policy and accurately reflect the reporting structure.

26. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

NOTE: The agency reported that during the period in review no directives or decisions, that impacted the administration and operation of policies, programs or procedures geared toward

the prevention of sexual harassment, were made between the agency head and the principal EEO professional. As compliance with this standard could not be meaningfully measured for the period in review, no further evaluation was conducted in this area. Documentation should be maintained when future directives or decisions occur between the agency head (or, in this case, the Chief of Staff) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

## **VI. RESPONSIBILITY FOR IMPLEMENTATION – MANAGERS**

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

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
- ✓ The agency answered affirmatively to the EEP's *Preliminary Interview Questionnaire* indicating that managers and supervisors were held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. The agency reported that managers and supervisors were held accountable for consulting and communicating with an EEO professional if sexual harassment is observed; encouraging subordinates to consult with an EEO professional if sexual harassment is observed, communicated or suspected; maintaining privacy with regard to sexual harassment issues; and maintaining a work environment that fosters sensitivity and respect for diversity.
  - The agency did not provide documentation that demonstrates that managers and supervisors were held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures or that this expectation was communicated. **Corrective action required.**

**Corrective Action #4:** Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

28. Ensure 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 agency's managerial performance evaluation form did not contain a rating for EEO. **Corrective action required.**

**Corrective Action #5:** Ensure 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).

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

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

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports<sup>5</sup> on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

- The agency did not submit Annual Plans of measures or programs to provide equal employment opportunity. Corrective action required.

Corrective Action #6: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

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

1. Distribute a memorandum from the agency head informing employees of the EEPC audit and any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPC's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

Final Action: Distribute a memorandum from the agency head informing employees of the EEPC audit and any changes implemented in the agency's policies and procedures against sexual harassment pursuant to the EEPC's audit, and re-emphasizing the agency head's commitment to the EEO program and the prevention of sexual harassment.

**Conclusion**

The agency has 6 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*.

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<sup>5</sup> Submission of *Quarterly Reports on EEO Activity* is optional for non-Mayoral agencies.



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

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

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

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

Respectfully submitted by,

A handwritten signature in black ink, appearing to read "Zuell", written over a horizontal line.

Ilacia Zuell, Manager, EEO Analysis and Audit Unit

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: Vivian Velez, Principal EEO Professional

**Appendix – 1**

**Office of the Bronx Borough President**

**CEEDS Report: Workforce Composition Summary**

**2<sup>nd</sup> Quarter Fiscal Year 2018  
(End of Audit Period)**

RUN DATE: 01/03/18  
RUN TIME: 14:40:13.7

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

PAGE: 15  
REPORT: EBEP210

QUARTER 2 YEAR 2018

AGENCY 011 BOROUGH PRESIDENT-BRONX

AGENCY CODE : 011 BOROUGH PRESIDENT-BRONX  
EEO JOB GROUP : 001 ADMINISTRATORS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
12961	DEPUTY BOROUGH PRESIDENT	0	0	0	0	0	0	0	1	0	0	0	0	0	1
12994	BOROUGH PRESIDENT	0	0	1	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		0	0	1	0	0	0	0	1	0	0	0	0	0	2
		0.00	0.00	50.00	0.00	0.00	0.00	0.00	50.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 011 BOROUGH PRESIDENT-BRONX  
EEO JOB GROUP : 002 MANAGERS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
03647	SPECIAL ASSISTANT TO THE B	2	0	0	0	0	0	0	0	0	0	0	1	0	3
05106	ASSISTANT TO THE PRESIDENT	0	0	1	0	0	0	0	0	0	1	0	0	0	2
05144	RESEARCH AND LIAISON COORD	0	0	0	0	0	0	0	0	0	0	0	1	0	1
05145	RESEARCH LIAISON AND GOVER	0	0	1	0	0	0	0	0	0	0	0	1	0	2
10009	ADMINISTRATIVE BUSINESS PR	0	0	0	0	0	0	3	0	0	0	0	0	0	3
10025	ADMINISTRATIVE MANAGER	0	0	0	0	0	0	0	1	0	0	0	0	0	1
10026	ADMINISTRATIVE STAFF ANALY	0	0	0	0	0	0	0	0	1	0	0	0	0	1
10050	COMPUTER SYSTEMS MANAGER	1	0	0	0	0	0	0	0	0	0	0	0	0	1
10053	ADMINISTRATIVE CITY PLANNE	1	0	0	0	0	0	0	0	0	0	0	0	0	1
10062	ADMINISTRATIVE EDUCATION O	0	0	0	0	0	0	0	1	0	0	0	0	0	1
13210	ASSISTANT TO THE PRESIDENT	1	0	0	0	0	1	0	0	0	0	0	0	0	2
13231	EXECUTIVE ASSISTANT	1	0	0	0	0	0	0	0	0	0	0	0	0	1
20835	CONSULTING ENGINEER	1	0	0	0	0	0	0	0	0	0	0	0	0	1
60808	PUBLIC INFORMATION OFFICER	1	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		8	0	2	0	0	1	3	2	1	1	0	3	0	21
		38.10	0.00	9.52	0.00	0.00	4.76	14.29	9.52	4.76	4.76	0.00	14.29	0.00	100.00

AGENCY CODE : 011 BOROUGH PRESIDENT-BRONX  
EEO JOB GROUP : 003 MANAGEMENT SPECIALISTS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
1002A	ADMINISTRATIVE STAFF ANALY	0	0	0	0	0	0	0	0	1	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		0	0	0	0	0	0	0	0	1	0	0	0	0	1
		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 011 BOROUGH PRESIDENT-BRONX  
EEO JOB GROUP : 007 SOCIAL WORKERS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		

RUN DATE: 01/03/18  
RUN TIME: 14:40:13.7

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
WORK FORCE COMPOSITION SUMMARY  
QUARTER 2 YEAR 2018 AGENCY 011 BOROUGH PRESIDENT-BRONX

PAGE: 16  
REPORT: EBEP210

51495 DIRECTOR OF COMMUNITY PLAN	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
	100.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 011 BOROUGH PRESIDENT-BRONX  
EEO JOB GROUP : 012 CLERICAL SUPERVISORS

		MALE						FEMALE							
TITLE CODE	TITLE DESCRIPTION	WHITE	BLACK	HISPAN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPAN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	OTHER	TOTAL EMP
10124	PRINCIPAL ADMINISTRATIVE A	0	0	0	0	0	0	0	0	1	0	0	0	0	1
	EEO JOB GROUP TOTAL.....:	0	0	0	0	0	0	0	0	1	0	0	0	0	1
		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 011 BOROUGH PRESIDENT-BRONX  
EEO JOB GROUP : 013 CLERICAL

		MALE						FEMALE							
TITLE CODE	TITLE DESCRIPTION	WHITE	BLACK	HISPAN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPAN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	OTHER	TOTAL EMP
05107	SECRETARY TO ASSISTANT TO	0	0	0	0	0	0	0	0	1	0	0	0	0	1
05108	SECRETARY TO THE EXECUTIVE	1	0	0	0	0	0	0	0	0	0	0	0	0	1
10251	CLERICAL ASSOCIATE	0	0	0	0	0	0	0	0	1	0	0	0	0	1
12885	SECRETARY TO THE DEPUTY BO	0	0	0	0	0	0	0	0	1	0	0	0	0	1
	EEO JOB GROUP TOTAL.....:	1	0	0	0	0	0	0	0	3	0	0	0	0	4
		25.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	75.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 011 BOROUGH PRESIDENT-BRONX  
EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

		MALE						FEMALE							
TITLE CODE	TITLE DESCRIPTION	WHITE	BLACK	HISPAN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPAN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	OTHER	TOTAL EMP
56056	COMMUNITY ASSISTANT	0	1	0	0	0	0	0	0	0	0	0	0	0	1
56057	COMMUNITY ASSOCIATE	1	0	1	1	0	0	0	1	4	0	0	0	0	8
56058	COMMUNITY COORDINATOR	0	1	5	0	0	0	0	2	6	0	0	0	0	14
	EEO JOB GROUP TOTAL.....:	1	2	6	1	0	0	0	3	10	0	0	0	0	23
		4.34	8.70	26.09	4.35	0.00	0.00	0.00	13.04	43.48	0.00	0.00	0.00	0.00	100.00

AGENCY TOTAL.....:	11	2	9	1	0	1	3	6	16	1	0	3	0	0	53
	20.75	3.77	16.98	1.89	0.00	1.89	5.66	11.32	30.19	1.89	0.00	5.66	0.00	0.00	100.00

Appendix – 2

**Office of the Bronx Borough President**

**Equal Employment Opportunity Policy**

April 20, 2018



**BRONX BOROUGH PRESIDENT RUBEN DIAZ JR.**

## **EQUAL EMPLOYMENT OPPORTUNITY (“EEO”)**

### **1. Policy Statement**

#### **EQUAL EMPLOYMENT OPPORTUNITY**

##### **POLICY STATEMENT**

The Office of the Bronx Borough President is determined to be in compliance with City, State and Federal anti-discrimination laws as they relate to employment in this Agency, consistent with the concept of merit in employment.

The policy of the Office of the Bronx Borough President reflects its intention, within the framework of the Civil Service Law to:

1. Review all aspects of employment policies and practices as they relate to selection criteria, recruitment, hiring, promotion, transfer, disciplinary procedures, separations, benefits, agency-sponsored training, educational tuition assistance and other terms and conditions of employment.
2. Recruit, hire and promote (within the framework of the Civil Service Law) in all job classifications without regard to race, color, national origin, alienage or citizenship status, religion or creed, gender (including gender identity as defined in the City’s EEO Policy Handbook), disability, age, military status, prior record of arrest or conviction, marital status, partnership status (as defined in the City’s Human Rights Law), caregiver status (as defined by the New York City Human Rights Law), predisposing genetic characteristic or carrier status, sexual orientation or status as a victim or witness of domestic violence, sexual offenses or stalking, and unemployment status, and, in many cases, consumer credit history<sup>1</sup> (each a “Protected Characteristic”), and base all employment decisions so as to further the principles of equal employment opportunity.
3. Ensure that all other personnel actions, i.e., compensation benefits, transfers, terminations, Agency sponsored training, educational tuition assistance, social and recreation programs will be administered without regard to any Protected Characteristic, and base all employment decisions so as to further the principles of equal employment opportunity.

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<sup>1</sup> There are some exceptions under which the office may use consumer credit history in employment decisions. They can be found at <http://www.nyc.gov/html/cchr/html/coverage/credit-history-legalguidance.shtml>

4. Prohibit, and ensure that all BBPO personnel are protected from, sexual harassment in the workplace whether by conduct or language such as any unnecessary touching, patting or pinching; sexually suggestive remarks, pictures or gestures; subtle or direct propositions for sexual favors; or verbal abuse or harassment of a sexual nature.
5. Prohibit, and ensure that all BBPO personnel are protected from, harassment in the workplace based on gender or any other Protected Characteristic.
6. Provide, pursuant to the Vocational Rehabilitation Act of 1973, equal employment opportunity as set forth above to qualified persons with disabilities.
7. Bar the aiding, abetting, inciting, compelling or coercing of any person present in the offices of the Bronx Borough President, whether or not an employee of the City, from engaging in any conduct prohibited by the City's EEO Policy, such as creating a hostile work environment based on any Protected Characteristic.
8. Bar discrimination against or harassing a Work Experience Program participant who performs work at the offices of the Bronx Borough President's Office.
9. Bar discrimination against paid or unpaid interns who perform work at the Bronx Borough President's Office.

The EEO policy also prohibits sexual harassment (i.e., conduct or language of a sexual nature) and harassment based on gender or any other protected characteristic (such as race, religion, disability, or sexual orientation). Forms of harassment may include, but are not limited to, the use of vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment.

The EEO policy prohibits conduct which unreasonably interferes with an employee's job performance or creates an intimidating, hostile, or offensive working environment, or creates an abusive working environment based on any protected characteristic.

The EEO policy also prohibits any employee from aiding, abetting, inciting, compelling, or coercing any person present in a City facility, whether or not that person is an employee of the City, from engaging in any conduct prohibited by this Policy, including, but not limited to, conduct that creates a hostile work environment based on any protected characteristic.

This Agency will make pertinent portions of the EEOP available to employees and applicants for employment through the Personnel and Legal Departments. Vivian Velez, is the Equal Employment Opportunity Officer and Chris McShane is the Equal Employment Opportunity Counselor and Section 504 Coordinator for this Agency. They have overall responsibility for the establishment and implementation of the EEOP and will report to The

Borough President with respect to the progress of providing equal employment opportunities within the Agency on a regular basis.

The goal of achieving and maintaining equal employment opportunity for all persons is of the highest priority for this Agency and has the full support of the Management of this Agency.

## **REASONABLE ACCOMMODATION POLICY AND PROCEDURES**

The Office of the Bronx Borough President (the “BBPO”) will make reasonable accommodation to applicants and employees (including interns) that permit them to perform the essential functions of their jobs in connection with disability, religion, pregnancy, childbirth or a related condition, and status as a victim of domestic violence, sex offenses, or stalking (collectively “protected bases”), unless so doing will result in undue hardship to the BBPO. The BBPO will also provide reasonable accommodations that enable employees with disabilities to enjoy equal benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities.

This policy also prohibits the denial of reasonable accommodations for disabilities; pregnancy, childbirth, and related medical conditions; religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking that do not create an undue hardship. (See Exhibit 2)

The citywide Equal Employment Opportunity Policy can be found at:  
<http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo.pdf>

The EEO handbook About EEO: What You May Not Know can be found at:  
[http://www.nyc.gov/html/dcas/downloads/pdf/misc/about\\_eo\\_booklet.pdf](http://www.nyc.gov/html/dcas/downloads/pdf/misc/about_eo_booklet.pdf)

The Reasonable Accommodation Procedural Guidelines, which includes reasonable accommodation forms for use by those seeking a reasonable accommodation, can be found at:  
[http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo\\_reasonableaccommodation.pdf](http://www.nyc.gov/html/dcas/downloads/pdf/misc/eo_reasonableaccommodation.pdf)

### **For Further Guidance**

Throughout the reasonable accommodation process, employees or BBPO officials may seek guidance from MOPD by calling (212) 788-2830 (voice) or (212) 788-2838 (TTY).

## **REQUEST FOR REASONABLE ACCOMMODATION**

The Office of the Bronx Borough President will make reasonable accommodation to qualified applicants and employees with disabilities to enable them to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment and the employment process, unless providing such accommodation would impose an undue hardship. This form shall be made available to and used by all applicants and employees requesting reasonable accommodation, in conjunction with the City's Reasonable Accommodation Policy and Procedure. To request a copy of the request form, contact the EEO officer.

## **SEXUAL HARASSMENT POLICY:**

As noted in the Equal Employment Opportunity Policy issued by the Department of Citywide Administrative Services (hereafter "DCAS"):

Sexual harassment is a form of employment discrimination which is prohibited by law. The federal government has created guidelines which define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."<sup>2</sup>

Sexual harassment may involve individuals of the same or different gender(s). A broad range of behavior may be considered sexual harassment, including sexually suggestive remarks, pictures or gestures, verbal abuse or harassment of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching.

DCAS has published the following sections, available online from City-Share<sup>3</sup>, to provide more information about specific protections under the City's EEO Policy regarding Sexual Harassment:

### **What is sexual harassment?**

Sexual harassment is a form of discrimination prohibited by federal, state and city laws. The federal government has created guidelines that describe sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.

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<sup>2</sup> Code of Federal Regulations, Title 29, Section 1604.11.

<sup>3</sup> [http://cityshare.nycnet.portal/site/cityshare/?front\\_door=true](http://cityshare.nycnet.portal/site/cityshare/?front_door=true)

**What conduct is unwelcome?**

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

**What are some behaviors that violate the City's sexual harassment policy?**

Telling sexual jokes or making sexual innuendos which cause embarrassment and discomfort to an individual may violate the City's sexual harassment policy. Also, repeatedly asking a co-worker for a date may be sexual harassment if this causes negative job consequences or an uncomfortable work environment. Asking for or pressuring a person into granting sexual favors in exchange for a job benefit, or threatening a person with negative employment decisions for rejecting sexual advances, violates the City's sexual harassment policy. Using office equipment, interoffice mail, e-mail, voice-mail or bulletin boards to send or display sexually suggestive messages, pictures, cartoons, posters or objects, or making sexually suggestive comments or propositions, or leering, squeezing, pinching, grabbing or other touching may be sexual harassment.

**Does sexual harassment have to involve sexual advances or other conduct that is sexual in nature?**

The City's EEO Policy prohibits not only harassment of a sexual nature - that is, involving sexual activity or language - but also harassment that involves vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment that is related to a person's gender.

**Is everyone in the City's workplaces entitled to be free of sexual and gender-based harassment?**

Yes. Some people think that sexual harassment only happens to women and that all harassers are men, but anyone can be sexually harassed, including men and people of the same sex as the harasser. You may complain regardless of whether the harasser is a manager, supervisor or co-worker. You may complain about harassment even if you are a manager or supervisor or if someone other than yourself is the target of the offensive conduct. Sexual harassment violates the City's policy even when the harasser is from another division or agency, or when the harasser is a client, customer, consultant, vendor, or other person who is not a City employee.

**What if I don't mean to sexually harass anyone?**

Even social relationships or behaviors that are not intended to hurt others may be unwelcome, offensive, intimidating or hostile, and therefore potentially sexually harassing. A good rule to follow: be sensitive to how others are reacting to your behavior, and always try to treat your fellow employees, men and women alike, with consideration, courtesy and respect.

## **2. DISCRIMINATION COMPLAINT PROCEDURE**

The purpose of this procedure is to handle all complaints of discrimination promptly and fairly. Employees are urged to follow this procedure immediately whenever they have a complaint or are aware of a problem within the Office of the Bronx Borough President possibly involving discrimination. The effective use of this procedure should result in an equitable resolution of the complaint and prevent any discriminatory practice from harming other employees. Those accused of discrimination will have a right to respond in writing to such allegations.

### **WHEN TO FILE A COMPLAINT**

You should file a complaint if you feel that you are being discriminated against by a manager, supervisor, or another employee because of:

Age	National origin
Alienage of Citizenship status	Prior record of arrest or conviction
Color	Race
Creed	Religion
Disability	Sexual harassment
Gender (including gender identity)	Sexual orientation
Marital status	Familial Status
Caregiver Status	Consumer Credit History

You should file a complaint if you feel that you have been sexually harassed by a manager, supervisor, or another employee.

You should file a complaint if you believe that a manager, supervisor or another employee has harassed you or retaliated against you because you filed a discrimination complaint or cooperated in the investigation of a complaint.

Federal, State and City laws prohibit the following types of discrimination:

1. Discriminatory treatment of employees in hiring, assignments, working conditions, salary and benefits, evaluation, promotions, training, transfers, discipline, termination, and any other terms and conditions of employment.
2. Policies that have a disproportionate impact on a group protected by law, unless they are justified by business necessity.
3. Failure to make a reasonable accommodation for an employee with a disability, or for an employee's religious observance.
4. Discriminatory harassment, intimidation, ridicule or insults.

## WHERE TO FILE A COMPLAINT

### 1. The EEO Officer

Vivian Velez, the Office of the Bronx Borough President's EEO Officer, is responsible for the handling of all EEO complaints. She reports directly to the Borough President about the EEO matters. Vivian Velez may be contacted at the Office of the Bronx Borough President, 851 Grand Concourse, Bronx, New York 10451; telephone number is (718) 590-3544.

### 2. The EEO Counselor

The following employees have been trained to act as EEO Counselor and to serve as liaison between their office and the EEO Officer: Christopher McShane.

### 3. Coordinators for Issues Related to Disability

Vivian Velez and Christopher McShane will be responsible for ensuring the Office of the Bronx Borough President's compliance with laws protecting people with disabilities. An employee who believes that he or she needs an accommodation for a disability should contact Christopher McShane at the Office of the Bronx Borough President, 851 Grand Concourse, Bronx, New York 10451, telephone number is (718) 537-3386.

## HOW TO FILE AN EEO COMPLAINT

An employee wishing to file an EEO complaint may contact one of the persons listed above. The employee has a right to meet privately with the EEO Officer or a Counselor during office hours to discuss the complaint. Employees should obtain approval for leaving their work assignment in order to meet with the EEO Officer or EEO Counselor during work hours, but employees may not be required to inform their supervisor of the subject of the meeting. Supervisors may not unreasonably deny permission to attend the meeting. Arrangements will be made to meet with the employee at outside premises where necessary in order to ensure confidentiality. At the employee's request, arrangements may also be made to hold the meeting before or after office hours, or during the employee's lunch period.

An employee may bring a representative of his or her choice to the meeting.

Employees who wish to discuss a problem concerning discrimination without revealing their identity may do so by telephoning the EEO Officer. In such cases the EEO Officer will provide counseling and take such follow-up action as may be appropriate. Employees should understand that the cooperation of witnesses will be needed if any disciplinary action is to be taken to rectify a problem of discrimination.

## WHAT HAPPENS WHEN A COMPLAINT IS FILED

The EEO Officer and the Counselors will treat the complaint confidentially. All EEO complaints will be handled under the direction of the EEO Officer. This means that information obtained from the complaint will not be discussed with other personnel except as necessary to investigate and resolve the complaint.

**Counseling:** The EEO Officer or Counselor will interview the complainant to find out the details of the complaint, and will discuss with the complainant the options for handling the complaint. These may include: (1) further actions the employee could take on his or her own behalf, (2) conciliation by the EEO Officer, (3) investigation by the EEO Officer, and (4) the employee filing a formal complaint with an outside agency. If it appears that the complaint does not involve an EEO problem, the EEO Officer or Counselor may refer the employee to other personnel for assistance.

**Conciliation:** In appropriate cases, an attempt will be made to mediate a complaint with the goal that the parties will voluntarily agree to a resolution of the matter involved. The conciliation process will be governed by the implementation guidelines issued by the Department of Personnel.

**Investigation:** An investigation will be conducted by the EEO Officer or a person acting under the direction of the EEO Officer. The investigation begins immediately after the EEO Officer or Counselor: (1) receives either an oral or written complaint of discrimination, and (2) determines that the allegations in the complaint are sufficient to establish a case of unlawful discrimination. The individual(s) accused of discrimination has the right to respond in writing to the allegations in the complaint at any time after being served with a copy of the complaint and notice of the complaint. In appropriate cases the investigation will be conducted in conjunction with the Office of the Bronx Borough President's General Counsel and/or the Inspector General assigned to the agency.

Any person who is interviewed in the course of an investigation shall have the right to be accompanied by a representative of his or her choice.

The EEO Officer will make a confidential written report of the investigation to the Bronx Borough President. If the EEO Officer concludes on the basis of the investigation that discrimination has occurred, she/he shall recommend appropriate corrective action. The written report shall be issued within 90 days of the date the discrimination complaint was filed, unless the time period is extended by mutual agreement of the EEO Office and the complainant.

The Bronx Borough President will review the EEO Officer's report and take any corrective action that he deems appropriate. Corrective action may include disciplinary measures such as formal reprimand, transfer, demotion, or termination. Disciplinary measures shall be taken in accordance with any applicable provisions of law, rules and regulations, and collective bargaining agreements.

The EEO Officer will advise all parties of the outcome of the complaint, in writing.

## RETALIATION

It is unlawful to retaliate against or harass any person for filing an EEO complaint or for cooperating in the investigation of an EEO complaint. Any employee who engages in such retaliation or harassment shall be disciplined.

### **OTHER PLACES WHERE A COMPLAINT OF DISCRIMINATION MAY BE MADE:**

Any employee or applicant for employment who believes that he or she has experienced discrimination has a right to file a formal complaint with the federal, state or local agencies listed below. A person does not give up this right when he or she files a complaint with the Office of the Bronx Borough President's EEO Officer, or any of the EEO Counselors. The following federal, state and local agencies enforce laws against discrimination:

#### **NEW YORK CITY COMMISSION ON HUMAN RIGHTS**

**22 Reade St**

**New York, NY 10007**

**(212) 306-7450**

#### **Bronx Location**

**1932 Arthur Avenue, 2<sup>nd</sup> Floor**

**Bronx, NY 10455**

**(718) 579-6900**

#### **NEW YORK STATE DIVISION OF HUMAN RIGHTS**

**One Fordham Plaza, 4<sup>th</sup> Floor**

**Bronx, NY 10458**

**(718) 741-8307**

**Or**

**163 West 125<sup>th</sup> Street, 4<sup>th</sup> Floor**

**New York, NY 10027**

**(212) 961-8650**

#### **UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**New York District Office**

**33 Whitehall Street, 5<sup>th</sup> Floor**

**New York, NY 10004**

**(212) 336-3620**

#### **NEW YORK STATE DEPARTMENT OF LABOR**

**26 Federal Plaza**

**New York, NY 10278**

**(212) 264-8185**

**STATUTORY TIME PERIODS FOR THE TIMELY FILING OF CHARGES OF DISCRIMINATION (MEASURED FROM THE OCCURRENCE OF A DISCRIMINATION ACTION)**

1. New York City Commission on Human Rights – **One Year** (N.Y.C. Administrative Code, Title 8, Chapter 1).
2. New York State Division of Human Rights – **One Year** (New York Executive Law, Article 15, §297(5); see also §297(9) (may file civil action first, but administrative action is then precluded))
3. United States Equal Employment Opportunity Commission – **180 days** unless a proceeding involving same acts is instituted first before the New York State Division of Human Rights or New York City Commission on Human Rights. Where a proceeding is first initiated before the State Division of Human Rights or the City Commission on Human Rights (No. 1 and 2 above) – filing before EEOC must occur within **300 days** (however, it is advisable to file before expiration of **240 days** because of a requirement that a complaint must be deferred to a local or state antidiscrimination agency for 60 days) or within **30 days** after receiving notice that the State Division or the City Commission has terminated the proceedings under State or local law, whichever is earlier (42 U.S.C. § 200e-5(e)).
4. Office of Federal Contract Compliance Programs – within **180 days**, 41 CFR § - 1.21 (1990).
5. EEO Office of an Agency of the City of New York – **One Year** (NYC Department of Personnel's Implementation Guidelines).



**BRONX BOROUGH PRESIDENT RUBEN DIAZ JR.**

October 10, 2018

Attn: Ilacia Zuell, Manager EEO Analysis & Audit Unit  
NYC Equal Employment Practices Commission  
253 Broadway, Suite 602  
New York, NY 10007

Re: Preliminary Determination for Audit: Review, Evaluation and Monitoring of the Office of the Bronx Borough President's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Ms. Zuell:

Pursuant to Chapter 36 of the New York City Charter, the Office of the Bronx Borough President exercises its option to respond the preliminary determination. Please find below the agency's response to each corrective action below:

**Corrective Action #1: 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 Policy that conforms to city, state and federal laws against sexual harassment-- for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.**

*Response:*

*The agency has already posted a copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies on the employee bulletin board on the 2<sup>nd</sup> floor in the Fiscal and Personnel Department.*

**Corrective Action #2: Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.**

*Response:*

*The Principal EEO Officer takes copious notes during interviews with persons filing EEO claims, respondents to EEO complaints, and during witness interviews. Also, a practice has been established whenever possible to tape all interviews by digital recorder, if witnesses or claimants consent to such taping. The Principal EEO officer thereafter reviews the tape again, and adds supplement to notes, if necessary to each complaint file.*

**Corrective Action #3: Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.**

*Response:*

*Since the City's sexual harassment policy is newly implemented, there has not been a full year to enable the agency's Principal EEO Professional, HR Professional, and General Counsel to identify whether there are barriers to employment opportunities that may be related to sexual harassment. It is the intention of the agency's Principal EEO Professional, HR Professional, and General Counsel to initiate a review the number of sexual harassment complaints, and the agency's employment practices, policies and programs to perform an annual assessment to determine what, if any, actions are required to correct deficiencies.*

**Corrective Action #4: Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.**

*Response:*

*The agency is committed to ensuring that managers and supervisors are held accountable for their obligations to enforce the agency's sexual harassment prevention policies and complaint procedures. The agency has drafted a memorandum which will be disseminated to all managers and supervisors to advising them of their responsibilities and under the agency's and the City's policies. Additionally, all agency employees have already successfully completed DCAS sexual harassment prevention training.*

**Corrective Action #5: Ensure 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).**

*Response:*


*The agency is currently performing a review and revision of the managerial performance evaluation form which will include a rating for manager and supervisor EEO compliance and reporting with city and agency mandates.*

**Corrective Action #6: Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.**

*Response:*

*The agency is currently at work to initiate the development of an Annual Plan of measures and programs to provide equal employment opportunity.*

*Sincerely,*



**Vivian Velez**  
**Principal EEO Officer**



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

Jennifer Shaw, Esq.  
Executive Agency Counsel/  
Director of Compliance

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 676.2724 fax

## BY MAIL AND EMAIL

October 16, 2018

Ruben Diaz, Jr.  
Borough President  
Office of the Bronx Borough President  
851 Grand Concourse, Room 301  
Bronx, New York 10451

RE: Audit Resolution **#2018AP/224-011-(2018)**: Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of the Bronx Borough President's Sexual Harassment Prevention and Response Practices from January 1, 2016 to December 31, 2017.

Dear Borough President Diaz:

On behalf of the members of the Equal Employment Practices Commission (Commission or EEPC), thank you for your October 10, 2018 response to our September 27, 2018 Preliminary Determination and for the cooperation extended to our staff during the course of this audit. Consistent with the powers and duties of agency heads, set forth in New York City Charter, this Commission requires your signed response to this Final Determination.

The Office of the Bronx Borough President falls within this Commission's purview under Chapter 36, Section 831.a of the New York City Charter (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..."

Section 815 of the Charter, which sets forth the duties of all heads of city agencies, mandates in Subdivision h, that "[t]he head of each city agency shall ensure that such agency does not discriminate against employees or applicants for employment as prohibited by federal, state and local law." To this end, Charter Section 815.a(19) specifies that "heads of city agencies shall have the following powers and duties... to establish measures and programs to ensure



*a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women... and, in accordance with the uniform procedures and standards established... for this purpose, to adopt and implement an annual plan... [c]opies of such plans shall be filed with the... equal employment practices commission."*

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 compliance-monitoring period of up to six (6) months 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.**

**The assigned compliance-monitoring period is: NOVEMBER 2018 TO APRIL 2019.** Implementing all the corrective actions prior to the conclusion of the six months is highly encouraged and will serve to shorten the compliance-monitoring period.

**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 contact Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at [jshaw@eepc.nyc.gov](mailto:jshaw@eepc.nyc.gov) or 212-615-8942.

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



Thank you and your staff for your continued cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charise L. Terry".

Charise L. Terry, PHR  
Executive Director

C: Vivian Velez, Principal EEO Professional

Enclosed: TeamCentral Agency Manual

### 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; the *EEPC Preliminary Interview Questionnaires* (PIQ) 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 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<sup>2</sup> (if applicable) to the *EEPC*'s preliminary Determination, our Final Determination is as follows:

#### **Monitoring Required**

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

**Corrective Action #1:** 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 Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

**Agency Response:** *"The agency has already posted a copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies on the employee bulletin board on the 2nd floor in the Fiscal and Personnel Department."*

**EEPC Response:** The *EEPC* recognizes the agency's commitment to implementing corrective action #1. The agency will be monitored for documentation that employees were informed of the posting of the aforementioned EEO policy to the employee bulletin board and/or of the agency's distribution of the EEO policy to all employees. Documentation of the above as well as proof of adoption/distribution of the City of New York's *EEO Complaint Procedural Guidelines*, or an agency policy that includes uniform and responsive procedures for investigating discrimination complaints, is required to demonstrate compliance.

**Corrective Action #2:** Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

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

Agency Response: *“The Principal EEO Officer takes copious notes during interviews with persons filing EEO claims, respondents to EEO complaints, and during witness interviews. Also, a practice has been established whenever possible to tape all interviews by digital recorder, if witnesses or claimants consent to such taping. The Principal EEO officer thereafter reviews the tape again, and adds supplement to notes, if necessary to each complaint file.”*

EEPC Response: The EEPC recognizes the agency’s commitment to implementing corrective action #2. To demonstrate compliance, please provide the EEPC with a policy or procedure that confirms establishment of the above protocol.

**Corrective Action #3:** Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency’s employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

Agency Response: *“Since the City’s sexual harassment policy is newly implemented, there has not been a full year to enable the agency’s Principal EEO Professional, HR Professional, and General Counsel to identify whether there are barriers to employment opportunities that may be related to sexual harassment. It is the intention of the agency’s Principal EEO Professional, HR Professional, and General Counsel to initiate a review the number of sexual harassment complaints, and the agency’s employment practices, policies and programs to perform an annual assessment to determine what, if any, actions are required to correct deficiencies.”*

EEPC Response: The EEPC recognizes the agency’s commitment to implementing corrective action #3. Documentation of the outcome of the agency’s first assessment of sexual harassment complaints and the agency’s employment practices, policies and programs to identify barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies, or a policy or procedure that establishes protocol for this annual review, is required to demonstrate compliance.

**Corrective Action #4:** Ensure that managers and supervisors are held accountable for enforcing the agency’s sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

Agency Response: *“The agency is committed to ensuring that managers and supervisors are held accountable for their obligations to enforce the agency’s sexual harassment prevention policies and complaint procedures. The agency has drafted a memorandum which will be disseminated to all managers and supervisors to advising them of their responsibilities and under the agency’s and the City’s policies. Additionally, all agency employees have already successfully completed DCAS sexual harassment prevention training.”*

EEPC Response: The EEPC recognizes the agency’s commitment to implementing corrective action #4. To demonstrate compliance, please provide the EEPC with the agency’s memorandum

to managers and supervisors advising them of their responsibilities, as well as documentation of the memorandum's dissemination and implementation of its expectations.

**Corrective Action #5:** Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

**Agency Response:** *"The agency is currently performing a review and revision of the managerial performance evaluation form which will include a rating for manager and supervisor EEO compliance and reporting with city and agency mandates."*

**EEPC Response:** The EEPC recognizes the agency's commitment to implementing corrective action #5. To demonstrate compliance, please provide the EEPC with a copy of the agency's managerial performance evaluation form that contains a rating for EEO.

**Corrective Action #6:** Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity.

**Agency Response:** *"The agency is currently at work to initiate the development of an Annual Plan of measures and programs to provide equal employment opportunity."*

**EEPC Response:** The EEPC recognizes the agency's commitment to implementing corrective action #6. To demonstrate compliance, please provide the EEPC with a copy of the agency's first Annual Plan of measures and programs to provide equal employment opportunity.

Thank you and your staff for your continued cooperation.

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

**RESOLUTION #2018AP/224-011-(2018):** Final Determination pursuant to the Audit: Review, Evaluation and Monitoring of the Office of the Bronx Borough President's Sexual Harassment Prevention and Response Practices from January 1, 2016 through December 31, 2017.

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

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

**Whereas**, pursuant to its audit of the Office of the Bronx Borough President's (BxBPO) Sexual Harassment Prevention and Response Practices, the Equal Employment Practices Commission (EEPC) issued a Preliminary Determination letter, dated September 27, 2018, setting forth findings and the following required corrective actions:

1. 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 Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
2. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
3. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
4. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

5. Ensure 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).
6. Submit to the EEPD an Annual Plan of measures and programs to provide equal employment opportunity.

**Whereas**, the agency submitted its response to the EEPD's Preliminary Determination letter on October 10, 2018; and

**Whereas**, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPD considered the agency's response and issued a Final Determination on October 16, 2018, which agreed and indicated that corrective action(s) nos. 1 through 6 require compliance monitoring; and

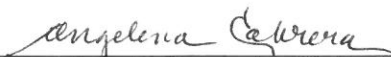
**Whereas**, in accordance with Chapter 36, Section 832(c) of the City Charter, the EEPD is required to monitor the agency for a period not to exceed six months, from November 2018 through April 2019, to determine whether it implemented the remaining required corrective actions; and

**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 its implementation of such corrective actions; and

**Whereas**, all of the EEPD's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures 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,

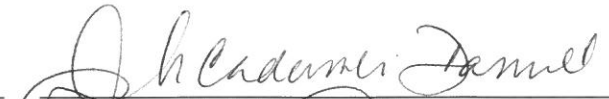
**Be It Resolved**, that the Commission approves issuance of this Final Determination to Bronx Borough President Ruben Diaz, Jr.

Approved unanimously on October 25, 2018.



Angela Cabrera  
Commissioner

Arva Rice  
Commissioner



Malini Cadambi Daniel  
Commissioner



Elaine S. Reiss, Esq.  
Commissioner



**BRONX BOROUGH PRESIDENT RUBEN DIAZ JR.**

January 15, 2019

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

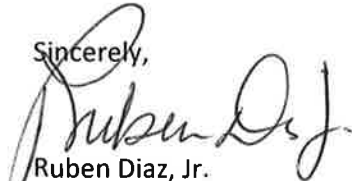
Re: Audit Resolution #2018AP/224-011-(2018): Final Determination Pursuant to the Review, Evaluation and Monitoring of the Office of the Bronx Borough President's Sexual Harassment Prevention and response Practices from January 1, 2016 to December 31, 2017

Dear Ms. Terry:

We are in receipt of the EEPC Audit Findings and the correspondence sent to us on October 16, 2018. Thank you again for granting our agency an extension of sixty (60) days to respond the EEPC's Final Determination due to the extended absence of our EEO Officer who was away from the office performing her civic duty as a juror.

As Borough President, I reaffirm the agency's strong commitment to maintaining fair employment practices and an inclusive working environment for all employees. The Office of the Bronx Borough President is committed to preventing discrimination by ensuring that all employees are aware of their rights and obligations under EEO Policy. To that end, documentation which address corrective actions numbered 1 through 4 in your determination have been already completed by my office and submitted. Our EEO Officer will provide to the EEPC documentation of corrective actions numbered 5 and 6 in short order.

Sincerely,




Ruben Diaz, Jr.  
Bronx Borough President



**BRONX BOROUGH PRESIDENT RUBEN DIAZ JR.**

**MEMORANDUM**

**TO:** All Employees

**FROM:** Ruben Diaz, Jr.  
Bronx Borough President 

**DATE:** March 19, 2019

**RE:** Equal Employment Practices Commission Audit of the Bronx Borough President's Office

.....

The New York City Equal Employment Practices Commission (EEPC) recently conducted an audit and evaluation of The Office of the Bronx Borough President's Sexual Harassment Prevention and Response Practices, consistent with its New York City Charter mandated responsibility to audit the employment practices, policies and procedures of every City agency once every four years. The EEPC conducts audits to ensure each agency's compliance with federal, state and local laws, regulations, policies, and procedures designed to increase equality of opportunity for City employees and job applicants.

The EEPC found The Office of the Bronx Borough President was generally in compliance with the law and policies, and identified certain areas for corrective action. Our office has implemented changes in our policies and procedures against sexual harassment, and have already incorporated these into The Office of the Bronx Borough President's prospective Annual Equal Employment Opportunity Plans. The following is a summary of the changes implemented:

1. Distribution of the Bronx Borough President's EEO Policy, Sexual Harassment Policy and Complaint Procedure. [This document was e-mailed to all staff on January 11, 2019. In addition, this document is posted on the Employee's Bulletin Board and we will continue to disseminate on an annual basis.]
2. EEO Interviews to be recorded to supplement notes to be taken during interviews
3. Annual meetings to be conducted between General Counsel, Human Resource and EEO Professional to identify any employment barriers. [an annual meeting has occurred for year 2019]

5. Performance Evaluations for managers and supervisors now includes an EEO component and rating.
6. EEO Annual Plan for the agency has been created and submitted to EEPC.

As Bronx Borough President, I hereby reaffirm my commitment to the Bronx Borough President's Office Equal Employment Opportunity program and the prevention of sexual harassment. I take this opportunity to reaffirm our agency's strong commitment to maintaining a workplace and employment practices free from unlawful discrimination and harassment for all our employees and applicants for employment. I am firmly committed to preventing discrimination and sexual harassment by ensuring that all employees are aware of their rights and obligations under the Equal Employment Opportunity policy and by encouraging a work environment that tolerates and appreciates differences among employees. I thank you for sharing this commitment.

**RESOLUTION NO.**  
**2018AP/229-011-(2019)C6**  
**Office of the Bronx Borough President**  
**Borough President Ruben Diaz, Jr.**  
**Sexual Harassment Prevention and Response Practices**  
**DETERMINATION: COMPLIANCE**

**SYNOPSIS**

<b>Corrective Action(s)</b>	Total: 6		
<b>Period Audit Covered</b>	January 1, 2016 to December 31, 2017		
<b>Preliminary Determination Issued</b>	September 27, 2018	Response Received	October 10, 2018
<b>Final Determination Issued</b>	October 16, 2018	Response Received	January 15, 2019
<b>Compliance-Monitoring</b>	Required	November 1, 2018 to April 30, 2019 without extension	

**Whereas**, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

**Whereas**, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities' practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC's determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, the EEPC conducted an audit, review, and evaluation of the Office of the Bronx Borough President's Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of the Bronx Borough President's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated September 27, 2018, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. 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 Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
2. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
3. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
4. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
5. Ensure 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).
6. Submit to the EEPD an Annual Plan of measures and programs to provide equal employment opportunity.

**Whereas**, within a two-week deadline following the EEPD's Preliminary Determination, the entity submitted a preliminary response; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPD issued a Final Determination on October 16, 2018, which indicated that the following areas required corrective action: no(s). 1 - 6; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPD assigned a monitoring period from November 1, 2018 to April 30, 2019, to determine whether the entity eliminated areas of non-compliance, if any; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), on January 15, 2019, the entity issued a response to the EEPD's Final Determination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the Office of the Bronx


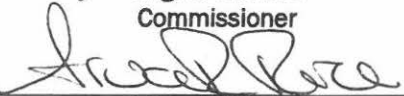
Borough President was monitored until March 22, 2019; and


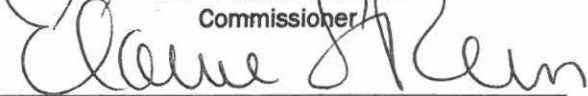
**Whereas**, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the Borough President submitted a copy of a memorandum to staff dated March 18, 2019, which recognized the EEPC's audit and reiterated commitment to the Office of the Bronx Borough President's equal employment practices; Now Therefore,

**Be It Resolved**, that the Office of the Bronx Borough President has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

**Be It Resolved**, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to Borough President Ruben Diaz, Jr. of the Office of the Bronx Borough President.

Approved unanimously on April 18, 2019.

  
\_\_\_\_\_  
Angela Cabrera  
Commissioner  
  
\_\_\_\_\_  
Arva R. Rice  
Commissioner

  
\_\_\_\_\_  
Malini Cadambi Daniel  
Commissioner  
  
\_\_\_\_\_  
Elaine S. Reiss, Esq.  
Commissioner



**BY MAIL AND EMAIL**

Vacant  
Chair

April 18, 2019

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

Ruben Diaz, Jr.  
Borough President  
Office of the Bronx Borough President  
851 Grand Concourse  
Bronx, NY 10451

Charise L. Terry, PHR  
Executive Director

Judith Garcia Quiñonez, Esq.  
Executive Agency Counsel/  
Director of Learning and Development

Re: Resolution #2018AP/229-011-(2019)C6  
DETERMINATION: Compliance

Jennifer Shaw, Esq.  
Executive Agency Counsel/  
Director of Compliance

Dear Borough President Diaz:


253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 676. 2724 fax

On behalf of the members of the Equal Employment Practices Commission (EEPC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEPC's Board of Commissioners has approved the attached Determination.

Thank you and EEO Officer Vivian Velez for the cooperation extended to the EEPC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,

  
Angela Cabrera  
Commissioner

Enc.

C: Vivian Velez, EEO Officer, Office of the Bronx Borough  
President

EEPC

EQUAL EMPLOYMENT PRACTICES COMMISSION

This

# Determination of Compliance

is issued to the

## Office of the Bronx Borough President

for successfully implementing 6 of 6 required corrective actions pursuant to the Equal Employment Practices Commission's Sexual Harassment Prevention and Response Practices Audit From January 1, 2016 to this date.

On this 18th day of April in the year 2019,



Angela Cabrera, Commissioner



Charise L. Terry, PHR, Executive Director

In care of Borough President, Ruben Diaz, Jr.  
and Principal EEO Professional Vivian Velez