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BY MAIL AND EMAIL

December 17, 2018

Nicholas Himidian
Chairperson
Bronx Community Board No. 9
1967 Turnbull Avenue
Bronx, NY 10473

Re: Resolution **#2018AP/226-389-(2018)C19**: Determination Pursuant to Audit: Review, Evaluation and Monitoring of **Sexual Harassment Prevention and Response Practices of Bronx Community Board No. 9** for the period July 1, 2017 to June 30, 2018.

Dear Chairperson Himidian:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you and your agency for the cooperation extended to our staff during the course of this audit. This letter contains the EEPC's findings and determinations pursuant to our analysis for the period covering July 1, 2017 to June 30, 2018.

Chapter 36, Section 831(d)(5) of the New York City Charter (Charter) empowers the EEPC to audit and evaluate the employment practices and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity (EEO) for women and minority employees and applicants seeking employment. Charter Sections 831(d)(2) and 832(c) authorize the EEPC 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.

Bronx Community Board No. 9, which may herein be referred to as "the agency," falls within the EEPC's purview under Charter Chapter 36, Section 831(a), 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 EEO Program, not to issue findings of discrimination pursuant to the New York City Human Rights Law. The EEPC has adopted *Uniform Standards for EEPC Audits*¹ 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 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 City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies 2014* (Citywide EEO Policy); New York City Human Rights Law (NYC Administrative Code §§8-107(1)(a) and (d), 8-107.13, and 8-107.1); 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.

The *Uniform Standards for EEPC Audits* require each agency to distribute the Citywide EEO Policy or its own EEO policy. As the Community Boards are comprised of members appointed by the respective Borough Presidents, under the *Minimum Equal Employment Opportunity Standards for Community Boards*, the expectation is that a Community Board adopts and distributes the Borough President's EEO Policy.

Scope and Methodology

The EEPC has established *Community Board Auditing Standards for Sexual Harassment Prevention and Response*. The EEPC's audit methodology includes the collection and analysis of the documents, records, and data the agency provides in response to the *Sexual Harassment Prevention and Response Preliminary Interview Questionnaire (PIQ) for Community Boards*, which is based on these standards. The EEPC may conduct follow-up requests or discussions for clarity. The PIQ was sent to Bronx Community Board No. 9 on October 1, 2018. The EEPC received Bronx Community Board No. 9's (hereinafter referred to as BxCB9) completed questionnaire on October 22, 2018. The following determination indicates where the Community Board's District Office has or has not complied, in whole or in part, with the EEPC's *Minimum Equal Employment Opportunity Standards for Community Boards*.

Description of the Community Boards

Community Boards are local representative bodies. Each Community Board is comprised of up to fifty unsalaried members appointed by the Borough President in consultation with the City Council members who represent any part of the Community Board district. Each Community Board hires a full time, salaried District Manager and salaried support staff to administer its District Office, which works to resolve the service delivery problems of its residents and businesses. Community Boards also have an advisory role in zoning, land use issues, community planning, the city budget process, and the coordination of municipal services. Any person who resides, does business, or has a professional or other significant interest in the community is eligible for appointment to

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



his/her Community Board. In addition to the Chairperson, the BxCB9's headcount consisted of a *District Manager*, an *Assistant District Manager*, a *Community Aide*, and a *College Aide*.

DETERMINATION

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 compliance with the standards for this subject area.

1. Community Boards must distribute/post an annual Policy statement or memorandum by the Chairperson reiterating commitment to the prevention of sexual harassment.
- ✓ On April 20, 2018, BxCB9 posted the Bronx Borough President's (Borough President) "*Joint Memorandum: Agency Head's 2018 Statement Against Sexual Harassment and Statement of Discrimination/ Sexual Harassment Investigation Complaint Procedures*" (hereinafter referred to as the SH Complaint Procedures) on a bulletin board, that contained employee information, located within the BxCB9 office. The SH Complaint Procedures stated, "*the City's EEO Policy prohibits not only harassment of a sexual nature...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.*" It further noted "[a]s Borough President, I reaffirm the agency's commitment to maintaining fair employment practices for all employees."
2. Community Boards must follow, distribute, and post the Borough President's policy(ies) against sexual harassment.
- ✓ BxCB9 posted the SH Complaint Procedures on an employee bulletin board located within the BxCB9 office (see § I.1). The SH Complaint Procedures stated, "[e]mployees are hereby once again notified that the Citywide Policy² regarding 'Sexual Harassment' is incorporated into the policies of the Office of the Bronx Borough President." The Citywide EEO Policy³ stated, "*sexual harassment is a form of employment discrimination which is prohibited by law. The federal government created guidelines which define sexual harassment as 'unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature...'*"

² The *Citywide Policy* refers to the *Equal Employment Opportunity Policy, Standards, and Procedures to Be Utilized by City Agencies, City of New York 2014* (hereinafter referred to as the *Citywide EEO Policy*), which is available to all New York City employees at <http://www.nyc.gov/html/dcas/html/about/eeopol.shtml>.

³ The Bronx Borough President's Office advised the EEPC that it has adopted and posted the *Citywide EEO Policy*. As such, the agency's posting of the SH Complaint Procedures, which incorporates by reference the *Citywide EEO Policy*, is consistent with the EEPC's standard that Community Boards must follow, distribute, and post the Borough President's policy(ies) against sexual harassment.



II. EEO TRAINING FOR AGENCY

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

3. Community Boards must ensure that all individuals who work within the Board receive training and/or a guide on the prevention of sexual harassment and their related rights and responsibilities.
- ✓ On April 20, 2018, BxCB9 ensured that all individuals who work within the Board received the SH Complaint Procedures by physically posting the document on a bulletin board (see §I.1). The SH Complaint Procedures included BxCB9's policy against sexual harassment and discrimination complaint procedures including sections on "*What are some behaviors that violate the City's sexual harassment policy*", "*When to File A Complaint*", "*How to File an EEO Complaint*", and "*Retaliation*". The SH Complaint Procedures also defined sexual harassment, and outlined employee rights and responsibilities under city, state and federal laws that pertain to sexual harassment prevention in the work place.

NOTE: In addition, certificates of completion demonstrate that, subsequent to the period in review, between July 27, 2018 and August 10, 2018, all BxCB9 employees completed the Department of Citywide Administrative Services', "*Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace*" computer-based training.

III. COMPLAINT & INVESTIGATION PROCEDURES

Summary of Complaint Activity: Bronx Community Board No. 9 reported no employment discrimination complaints were filed during the audit period.

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

4. Community Boards must ensure that all individuals who work within the Board receive information regarding the Borough President's complaint investigation procedures.
- ✓ On April 20, 2018, BxCB9 ensured that all individuals who work within the Board received information regarding the Borough President's complaint investigation procedures by posting the SH Complaint Procedures on a bulletin board (see § I.1). Section iii of the SH Complaint Procedures entitled, "*How to File an EEO Complaint*" stated, "*an employee wishing to file an EEO complaint may contact one of the [EEO Officers] listed above. The employee has a right to meet privately with the EEO Officer or a Counselor during office hours to discuss the complaint.*" The SH Complaint Procedures included detailed protocols for the investigation of discrimination/sexual harassment complaints, as well as the work addresses and telephone numbers of the Borough President's principal EEO Professional and EEO Counselor.
5. Community Boards must maintain a summary of annual complaint activity.

NOTE: BxCB9 reported no discrimination complaints were filed during the period in review. As compliance with the standard could not be meaningfully measured for the period in review, further evaluation of this area was impractical.



IV. RESPONSIBILITY FOR IMPLEMENTATION

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

6. Community Boards must direct employees to utilize the Borough President's Equal Employment Opportunity (EEO) Office to file an internal complaint.
- ✓ On April 20, 2018, the Bronx Borough President's SH Complaint Procedures was posted on a bulletin board in the BxCB9 office (see § I.1). The "Where to File A Complaint" section of the document stated, "the Office of the Bronx Borough President's EEO Officer is responsible for the handling of all EEO complaints. [The EEO Officer] reports directly to the Borough President about the EEO matters." The SH Complaint Procedures also included the work address and telephone numbers of the Bronx Borough President's principal EEO Professional and EEO counselor.
7. Community Board Chairpersons, or their designees, must consult and cooperate with the Borough President's principal EEO Professional on the prevention, investigation, and resolution of sexual harassment complaints.
 - BxCB9 did not demonstrate that during the period in review, it consulted or cooperated with the Borough President's principal EEO Professional on the prevention, investigation, and resolution of sexual harassment complaints. **Corrective action required.**

NOTE: Subsequent to the period in review, the Director of Community Boards Unit and Legislative Affairs of the Bronx Borough President's Office and BxCB9's *District Manager* communicated via email regarding updated sexual harassment training requirements.

SUMMARY OF REQUIRED CORRECTIVE ACTIONS

Pursuant to the Equal Employment Practices Commission's *Minimum Equal Employment Opportunity Standards for Community Boards*, **no corrective actions are currently required.**

CONCLUSION

If no corrective action is required, a *Determination of Compliance* is attached and no response is required.

If corrective action(s) are required, pursuant to Charter Chapter 36, please respond to this Determination within 14 days from the date of this letter via mail or email to Executive Director, Charise L. Terry, PHR at cterry@eepc.nyc.gov. Your response should indicate (with attached documentation) what steps your agency has taken, or will take, to implement the corrective action(s).



**Equal Employment
Practices Commission**

Once your response is received, the EEPC will inform your agency in writing of its compliance status or assigned compliance monitoring period. For action(s) not implemented, a monthly compliance monitoring period will be assigned, where the EEPC will verify implementation of the prescribed corrective action(s). Upon your agency's completion of the final corrective action, a *Determination of Compliance* will be issued.

If your agency does not respond within 14 days and corrective action(s) are required, the EEPC will assign a monthly compliance monitoring period.

Because the Community Boards are comprised of members appointed by the respective Borough Presidents, please forward a copy of your response to this Determination to the Office of the Borough President's EEO Officer.

In closing, thank you and your staff for the cooperation extended to the Equal Employment Practices Commission during the course of this audit.

Respectfully Submitted by,

Imani Bowen, EEO Program Analyst

Approved by,

Charise L. Terry, PHR
Executive Director

- c: William Rivera, District Manager
Ruben Diaz Jr., Bronx Borough President
Vivian Velez, Principal EEO Professional, Office of the Bronx Borough President
Tom Lucania, Director of Community Boards Unit and Legislative Affairs

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

RESOLUTION# #2018AP/226-389-(2018)C19: Determination of Compliance (No Corrective Action Required) pursuant to the Audit: Review, Evaluation and Monitoring of the Bronx Community Board No. 9's Sexual Harassment Prevention and Response Practices for compliance with the Equal Employment Practices Commission's *Minimum Equal Employment Opportunity Standards for Community Boards* from July 1, 2017 through June 30, 2018.

Whereas, pursuant to Chapter 36, Section 831(d)(2) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) 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 (EEO) for minority group members and women, and to make recommendations to city agencies to ensure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Charter Chapter 36, Section 831(d)(2), the EEPC 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, the EEPC conducted an audit and analysis of the Bronx Community Board No. 9's Sexual Harassment Prevention and Response Practices; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any city agency does not provide equal employment opportunity. Now, Therefore,

Be It Resolved, that pursuant to the audit and analysis of the Bronx Community Board No. 9's EEO Program for compliance with the EEPC's *Minimum Equal Employment Opportunity Standards for Community Boards*, the Equal Employment Practices Commission hereby affirms and adopts the following determination:

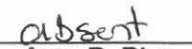
Bronx Community Board No. 9's EEO Program has established EEO compliance with the EEPC's *Minimum Equal Employment Opportunity Standards for Community Boards*. ***No corrective actions are required.***

Be It Finally Resolved, that the Commission approves issuance of this Determination of Compliance to Chairperson Nicholas Himidian of Bronx Community Board No. 9.


Approved unanimously on December 17, 2018.



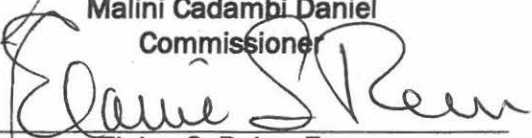
Angela Cabrera
Commissioner



Arva R. Rice
Commissioner



Malini Cadambi Daniel
Commissioner



Elaine S. Reiss, Esq.
Commissioner

EEPC

EQUAL EMPLOYMENT PRACTICES COMMISSION

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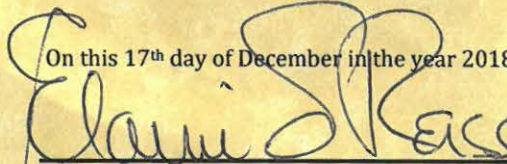
Determination of Compliance

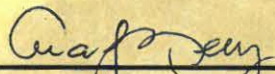
is issued to

Bronx Community Board No. 9

for its compliance with the Equal Employment Practices Commission's Minimum Equal Employment Opportunity Standards for Community Boards from July 1, 2017 to this date.

On this 17th day of December in the year 2018,


Elaine S. Reiss, Esq., Commissioner


Charise L. Terry, PHR, Executive Director

In care of Chairperson Nicholas Himidian
and District Manager William Rivera