



FIRE DEPARTMENT

9 METROTECH CENTER

BROOKLYN, N.Y. 11201-3857

NICHOLAS SCOPPETTA
Fire Commissioner



May 31, 2007

Ernest F. Hart, Esq.
Chair
Equal Employment Practices Commission
City of New York
40 Rector Street, 14th Floor
New York, New York 10006

Re: The New York City Fire Department's Response to the Final Determination and Audit by the Equal Employment Practices Commission ("EEPC") of the Fire Department's Compliance with the City's Equal Employment Opportunity Policy from July 1, 2003 to June 30, 2005

Dear Mr. Hart:

This is in response to your Letter of Final Determination and Audit of the New York City Fire Department's compliance with the City's Equal Employment Opportunity Policy from July 1, 2003 to June 30, 2005.

1.) **EEPC Recommendation # 4:**

The FDNY should ensure that all employees involved in job interviewing receive structured interview training, either through internal training or training provided by the DCAS or another appropriate organization. (Sect. IV, EEOP)

FDNY Preliminary Response:

The FDNY will: 1) identify employees who are involved in job interviewing; 2) provide employees who are involved in job interviewing with structured interview training or training provided by DCAS or another appropriate organization.

EEPC Final Determination:

Agree.

We agree with your responses to the following EEPC recommendations, pending documentation that can be attached to your reply or provided during the compliance period:

FDNY Response to Final Determination:

Agree. The FDNY will: 1) identify employees who are involved in job interviewing; 2) provide employees who are involved in job interviewing with structured interview training or training provided by DCAS or another appropriate organization. In addition, the FDNY EEO Unit will provide supporting documentation during the Compliance period.

2.) **EEPC Recommendation #7:**

It is the Commission's position that appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding EEO program operational decisions should be maintained and kept in clearly identifiable, secure files.

FDNY Preliminary Response:

The FDNY will make every effort to maintain and document meetings and other communications between the EEO Officer and the Fire Commissioner. The Department will make every effort to maintain and keep clear, identifiable and secure files of EEO programs and operational decisions.

EEPC Final Determination:

Agree.

We agree with your responses to the following EEPC recommendations, ending documentation that can be attached to your reply or provided during the compliance period:

FDNY Response to Final Determination:

Agree. The FDNY will make every effort to maintain and document meetings and other communications between the EEO Officer and the Fire Commissioner. The Department will make every effort to maintain and keep clear, identifiable and secure files of EEO programs and operational decisions. The FDNY EEO Unit will provide supporting documentation during the Compliance period.

3.) **EEPC Recommendation #1:**

The Section 55-A Program brochures issued by DCAS should be distributed to all new and current employees – uniformed and civilian. (Sect. IIB, EEOP)

FDNY Preliminary Response:

The information contained in the Section 55-A brochure (Equal Employment Opportunity for Persons with Disabilities) was communicated to all current employees through the FDNY Civilian Bulletin (Vol. XVI, Issue No. 7), dated

April 6, 2006. The FDNY EEO Office distributes the Section 55-A brochure to all new employees during new employee orientation and training which includes the orientation of Emergency Medical Services, Fire and civilian personnel. The FDNY Equal Employment Opportunity Booklet, Section VII, p. 19, references the NYS Civil Service Law 55-A Program and the 55-A Coordinator, Gloria Johnson, Assistant Counsel. (See attached).

EEPC Final Determination:

It is unclear from your response if the FDNY is asserting that the Section 55-A brochures were distributed to new employees during the audit period. (The former EEO Officer told the EEPC auditors that the program brochures were not distributed to employees between July 1, 2003 and June 30, 2005.) In addition, your response does not commit to the distribution of the Section 55-A brochures to all new and current employees – uniformed and civilian. (Note: There was no attached document).

FDNY Final Response:

No, the FDNY is not asserting that the Section 55-A brochures were distributed to new employees during the audit period (July 1, 2003 to June 30, 2005.)

As noted, in the FDNY's Preliminary Response to Recommendation #1, the FDNY is asserting that the information that is contained in the Section 55-A brochure was placed in the FDNY Civilian Bulletin (Vol. XVI, Issue No. 7), dated April 6, 2006. (See attached) and that, currently on a daily basis, the FDNY EEO Office distributes the Section 55-A brochure to all Emergency Medical Services and Fire personnel on their Annual Medical Training Day. In addition, the FDNY currently distributes to all new employees a copy of the Section 55-A brochure during new employee orientation and training which includes the orientation of new Firefighters, new Emergency Medical Services and civilian personnel.

In addition, the FDNY Equal Employment Opportunity Booklet and daily PowerPoint training presentation, Section VII, p. 19, references the NYS Civil Service Law 55-A Program and the 55-A Coordinator, Gloria Johnson, Assistant Counsel. (See attached).

4.) **EEPC Recommendation #2:**

The EEO Officer should ensure that all of the FDNY EEO professionals who have not received EEO training from the DCAS receive such training. (Sect. VB, EEOP)

FDNY Preliminary Response:

Seven (7) EEO professionals received the EEO training offered by DCAS and three (3) EEO professionals remained to be trained.

The three (3) EEO professionals who have not received DCAS EEO training are scheduled to receive EEO training beginning Thursday, March 15, 2007 for five (5) consecutive Thursdays on March 22, 29, and April 5 and 12.

EEPC Rationale

Although the EEPC auditors were informed by the former EEO Officer that a total of 19 EEO professionals (2 EEO Investigators and 17 EEO Counselors) had not received DCAS's training for EEO professionals, your response refers to a total of 10 EEO professionals who either have recently received, or still need to receive, EEO training. The reason for this discrepancy is unclear.

FDNY Final Response:

During the audit period from July 1, 2003 to June 30, 2005, the EEO Office consisted of Assistant Commissioner Lundy, three (3) EEO Investigators, two (2) EEO Trainers/EEO Counselors and seventeen (17) EEO Counselors.

The EEO investigators were the EEO professionals who had the responsibility to intake complaints and investigate EEO matters. The primary responsibility of the EEO Trainers is training EMS personnel on the EEO Policy and EEO laws. The EEO Counselors are liaisons to the EEO Office who are responsible for guiding employees who have an EEO issue to contact the EEO Office and give them forms that they need for their complaints.

During the audit period Assistant Commissioner Paulette Lundy, one EEO Investigator, and the two EEO Trainers completed DCAS EEO training. The other two investigators were not trained.

To date, all EEO professionals have received basic EEO training offered by DCAS. (Also, please note that the Basic EEO training is only offered once or twice a year and because of the large number of city agencies seeking training and the limited number of personnel that can be accommodated at the DCAS training sessions, only two (2) EEO professionals from the FDNY have been granted the opportunity to attend each DCAS session despite requests by the FDNY to allow additional attendees).

5.) **EEPC Recommendation #3:**

The EEO investigator's confidential written report should be issued within 90 days of the date the discrimination complaint was filed. In rare circumstances where the investigation cannot be issued within 90 days, the parties to the Complaint should be notified of the delay. (DCAS, Discrimination Complaint Procedures Implementation Guidelines, April 2, 1996 Amendment)

FDNY Preliminary Response:

The EEO Staff will endeavor to issue confidential written reports within 90 days of the date the Complaint was filed. The EEO Office sends a "Notice of Delay" to Complainants when the investigation cannot be issued within 90 days. (See attached).

EEPC Rationale:

Our review of the FDNY discrimination complaint files found that the EEO Office did not send delay notification letters, when required, to complainants during the

audit period. It is unclear from your response if the FDNY is asserting that such delay notification letters were indeed sent during the audit period, or if such letters have been sent after the audit period. (There was no attached document).

FDNY Final Response:

The FDNY EEO Office is not asserting that that Delay Notification Letters were sent to Complainants during the audit period (July 1, 2003 to June 30, 2005).

However, on or about February 2007 the FDNY EEO Office began sending Delay Notification Letters to Complainants and continues to send out the Letters within the 90 days that the Complaint was filed. (See attached copy of 90 Day Delay Notification Letters).

6.) **EEPC Recommendation #5:**

The FDNY should secure the necessary training, either from DCAS or another appropriate source, to assess the manner in which civilian candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability or gender group. (Sect. IV, EEOP)

FDNY Preliminary Response:

(NOTE: Commissioner in the past, (8/31/00), the Department declined, for any number of reasons, to initiate an adverse impact study with regard to the written firefighters exams, educational requirements, etc. This particular EEPC audit is requesting that the Department initiate an adverse impact study *“to assess the manner in which civilian candidates are selected for employment, to determine whether there is any adverse impact upon particular racial, ethnic, disability or gender group”*. As you know, this will require an extensive undertaking, including hiring a consultant to capture all of the data on our civilian interviewing, hiring and selection process...therefore, I need some guidance on this response. I can share my thoughts with you based on what I have seen in prior EEPC audits and my understanding of our legal obligations to this Commission. Although the Department has declined to conduct adverse impact studies in the past...the EEPC has followed up with DCAS on those sensitive issues and, one way or the other, we are still “grappling” with these issues. Apparently, DCAS uses in-house consultant services to conduct a job analysis and adverse impact to determine if any “requirement” may disproportionately screen out members of historically underrepresented groups. I am not sure if they also conduct a study that applies to civilians. Let’s discuss. Thanks).

EEPC Rationale:

The response does address the recommendation.

FDNY Response to Final Determination:

From July 1, 2003 to June 30, 2005, the FDNY did not initiate or conduct an adverse impact study to *“to assess the manner in which civilian candidates are selected for employment, to determine whether there is any adverse impact upon particular racial, ethnic, disability or gender group”*. However, the FDNY will inquire about the availability and consider the option of DCAS training for

adverse impact analysis to assess the manner in which FDNY selects civilian candidates.

7.) **EEPC Recommendation #6**

The FDNY should notify all employees in writing of the name, location, and telephone number/e-mail address of the Career Counselor. (Sect. VB, EEOP)

FDNY Preliminary Response:

The FDNY Career Counselor is Audrey Brown Bennett; she is located at 9 MetroTech Center in the Personnel Department, 6th Floor. Her telephone number is (718) 999-2195 and her e-mail address is benneta@fdny.nyc.gov.

EEPC Rationale:

It is unclear from your response if this information was also distributed to all FDNY employees.

FDNY Response to Final Determination:

During the Audit period, the FDNY did not distribute Notice of the Career Counselor to FDNY employees. However, the FDNY will place a notice about the Career Counselor in the Civilian Bulletin and all EMS and Fire Personnel publications. The FDNY will add a PowerPoint slide to the daily training about the Career Counselor and provide documentation to support the effort during the Compliance period.

8.) **EEPC Recommendation #8:**

The agency head should direct the heads of the human resources and recruitment and diversity units to include the EEO Officer in selecting recruitment media and developing recruitment strategy. (Sect. VC, EEOP)

FDNY Response:

On a weekly basis, the EEO Officer receives a list of the employees who receive Diversity training through the Diversity Weekly Update. The EEO Officer will meet with the Fire Commissioner to determine the best way to accomplish the EEPC request that the EEO Officer have more involvement in selecting recruitment media and developing recruitment strategy,

EEPC Rationale:

It is unclear from your response if and when this recommendation will be implemented.

FDNY Response to Final Determination:

It has been implemented and the EEO Officer currently receives the Diversity training through the Diversity Weekly Update.

9.) **EEPC Recommendation #9:**

It is the position of the DCAS ("Model Agency EEO Commitment Memo," available on the DCAS website) and the EEPC that at least twice a year during normal staff meetings, managers and supervisors should emphasize their

commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office.

FDNY Response:

The EEO Office conducts daily EEO training for EMS and Fire personnel. During each training session, the EEO Discrimination Complaint process is included as part of the daily training curriculum. Civilian personnel also scheduled to receive annual EEO training.

The EEO Officer currently attends and participates in bi-weekly Senior Staff meetings and bi-weekly Initiatives Meetings that are scheduled by the Fire Commissioner with senior staff, managers and supervisors. The EEO Officer and the Fire Commissioner will schedule a bi-annual review of EEO policies with senior staff, managers and supervisors to affirm the employment rights of each employee with regard to filing a discrimination complaint with the EEO Office.

EEPC Rationale:

This Commission is pleased to learn that the EEO Office is conducting a variety of EEO training and attending senior staff and managerial meetings to affirm the EEO rights of all employees. However, the clear intent of this recommendation is to direct managers and supervisors to emphasize their commitment to the agency's EEO policies directly to the FDNY personnel under their supervision.

FDNY Response to Final Determination:

During the Audit period, the FDNY EEO Office did not schedule bi-annual reviews of the EEO policies with the FDNY senior staff, managers and supervisors to affirm the employment rights of each employee with regard to filing a discrimination complaint with the EEO Office. However, to date, the FDNY EEO Office has established a managerial and supervisory training Program that is often conducted by the EEO Officer. The EEO Officer affirms the employment rights of each employee with regard to filing a discrimination Complaint through EEO overviews and supervisory and managerial training.

If you have any additional questions please feel free to contact, Lyndelle T. Phillips the EEO Officer for the City of New York Fire Department at 718-999-1448.

Respectfully Submitted,


Nicolas Scoppetta
Fire Commissioner

Encls.