

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

- Letter of Preliminary Determination June 25, 2010
 - Agency Response July 30, 2010
 - Letter of Final Determination August 27, 2010
 - Agency Response October 5, 2010
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EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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June 25, 2010

Thomas A. Farley, M.D., MPH
Commissioner
Department of Health and Mental Hygiene
125 Worth Street, Room. 331
New York, New York 10013

Re: Resolution #10/06-816/ Preliminary Determination Pursuant to the Audit of the Department of Health and Mental Hygiene (DOHMH) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

Dear Commissioner Farley:

Pursuant to Chapter 35, Section 814(a)(12) of the New York City Charter, the City established the Citywide Equal Employment Opportunity Policy (EEOP), a set of uniform standards and procedures designed to ensure the equality of opportunity for women and minority municipal government employees and job applicants, and, consistent with federal, state and local laws, identified other groups for protection from discrimination in employment by city agencies.

Pursuant to Chapter 36, Section 831(d)(5) of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered 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.

Section 831(d)(2) authorizes this Commission to recommend all necessary and appropriate measures, standards and programs to be utilized by city agencies to ensure a fair and effective affirmative employment program of equal employment opportunity for minority group members and women employed by, or seeking employment with, city agencies.

The Charter defines 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 Commissioner of the Department of Health is appointed by the mayor.

This letter contains the preliminary determinations of EEPC pursuant to its audit of compliance by the Department of Health and Mental Hygiene (DOHMH), which may herein be referred to as "the agency," during the thirty-six month period commencing January 1, 2006 and ending December 31, 2008. Requests for corrective actions and/or recommendations are included where the EEPC has determined that the agency has failed to comply in whole or in part with the City's EEO Policy.

All recommendations for corrective actions are consistent with both the audit's findings and the parameter set forth in the EEO Policy, which, in accordance with section 815 of the City Charter, holds agency heads responsible for the effective implementation of equal employment opportunity. Therefore, the Department of Health and Mental Hygiene should incorporate these recommendations in its agency-specific EEO Plan. The relevant sections of the City's EEO Policy are cited in parenthesis at the end of each recommendation.

The purpose of this audit is to evaluate the agency's compliance with the EEOP, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope and Methodology

Audit methodology included an analysis of the DOHMH's responses to an EEPC Document and Information Request Form, Agency Specific Plans and quarterly EEO reports. Typically the EEPC staff would analyze City-wide Equal Employment Database System (CEEDS) data prepared by the Department of Citywide Administrative Services which determines underutilizations and concentrations of targeted groups within the agency's workforce. These designations represent imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market.

CEEDS data is critical in identifying underutilization in the city's workforce. Where underutilization is revealed within an agency's workforce, auditors determine whether an agency has undertaken reasonable measures for addressing underutilization. At present, the CEEDS data requires updating in order for the underutilization analysis to provide an accurate measure of the employment practices of city agencies. The DCAS is currently updating this data. Upon completion, the EEPC will review the data and make supplemental recommendations pursuant to this audit, if necessary.

The EEPC auditors also distributed interview questionnaires to the DOHMH's EEO Officer, one EEO Counselor/Investigator, EEO Trainer, Disability Rights Coordinator, Section 55A Coordinator, Personnel Director/Director of Human Resources,

Associate General Counsel (individual responsible for responding to external EEO complaints), Career Counselor, and Director of the Audit Unit.

The *EEPC's Employee Survey* was distributed via computer to 4,515 people employed full-time by the DOHMH during the audit period. One thousand, four hundred forty-nine people (32%) responded. The results of the survey is discussed in the proceeding pages and also attached. (Appendix 1) The *EEPC's Managerial/Supervisor Survey* was distributed to 494 managers and supervisors employed full-time by the DOHMH during the audit period. Two hundred nineteen people (44%) responded. The results of the survey is attached and discussed in the proceeding pages. (Appendix 5)

Description of the Agency

Pursuant to the provisions of Chapter 22 of the New York City Charter as amended in 2001, the agency was created via the merger of the New York City Department of Health and the Department of Mental Health, Mental Retardation, and Alcoholism Services.

The DOHMH's mission is to preserve and promote the health and mental health of all New Yorkers, and to promote the realization of full potential of those with disabling conditions. The department achieves this mission through a) ongoing assessment of the health status of the community, b) formulating policies and implementing programs to promote the public's health, and c) ensuring access to services by providing direct public health services or facilitating access to health care and ancillary services.

The Division of Mental Hygiene is responsible under the City Charter and the State Mental Hygiene law for the planning, contracting, monitoring, and evaluation of all local mental health, mental retardation and alcoholism services in New York City as well as the Early Intervention Program. The DOHMH administers over 1,600 programs through more than 400 contracts with over 300 voluntary agencies, and 14 municipal hospitals.

Personnel Activity During the Audit Period

During the audit period, 3,363 people were hired: 1,007 Caucasians, 1,146 African-Americans, 454 Hispanics, 417 Asians, 14 Native Americans and 325 "Unknown." Of the individuals hired, 2,419 were female. One thousand, eight hundred fifteen individuals were promoted during the audit period: 530 Caucasians, 734 African-Americans, 279 Hispanics, 211 Asians, and 18 Native Americans, and 43 "Unknown." Of the employees promoted, 1,265 were female. (Appendix 4)

The DOHMH reports that 2,571 full-time employees were involuntarily separated during the audit period: 739 Caucasians, 1,035 African-Americans, 345 Hispanics, 338 Asians, 15 Native Americans, and 99 "Unknown." One thousand, eight hundred and one of those individuals were female.

Between January 1, 2006 and December 31, 2008, the total number of the DOHMH employees increased by 12.7%, from 6,228 to 7,019. There were small percentage increases for Caucasians 1,608 (26%) to 1,878 (27%) and females 4,229 (68%) to 4,848 (69%). There was a small percentage decrease for African-Americans 2,827 (46%) to 2,939 (42%). Hispanics 895 to 1,001 (14%), Asians 629 to 708 (10%), and Native Americans 56 to 55 (1%) did not change. (Appendices 2 and 3) Although the total number of DOHMH's employees increased, the number was not significant to increase the percentage for African-Americans or change the percentages for Hispanics, Asians, and Native Americans.

Discrimination Complaint Activity During the Audit Period

During the period in review, 63 internal discrimination complaints were filed: 8 were based on sexual harassment, 7 were based on gender/sex, 4 were based on age, 4 were based on retaliation, 3 were based on disability, 3 were based on religion, 3 were based on sexual orientation, 2 were based on national origin, and 1 was based on race. The other 28 internal discrimination complaints were based on multiple categories. The EEO Officer completed and issued reports for 42 of these complaints, which received 5 probable cause determinations and 37 no probable cause determinations. Seven complaints were pending at the end of the audit period. Five of the complaints were administratively closed, 8 withdrawn, and 1 mediated. One external complaint was filed with the New York State Division of Human Rights; it was based on gender/sex and sexual orientation.

PRELIMINARY DETERMINATION

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

Plan Dissemination – Internally

The DOHMH is in compliance with the following requirements:

1. The agency head has issued a general EEO Policy Statement; it was distributed to employees via the agency Intranet and at new-hire orientation. The Citywide EEO Policy was distributed to legal, human resources, and EEO representatives, as well as managers and supervisors via agency Intranet and at new-hire orientation in November 2009. In addition, 82% of the respondents to the *EEPC's Manager/Supervisor Survey* indicated that they had received a copy of the agency's EEO Policy Statement.
2. The City's EEO Policy Handbook (*About EEO: What You May Not Know*, with addendum) was initially distributed agency-wide to employees at training sessions in 2003. In addition, 82% of respondents to the *EEPC's Employee Survey* indicated they had received the EEPC Policy Handbook. It is also disseminated by the EEO Liaisons

and Contacts. The Handbook and EEO Policies (*Sexual Harassment Policy Statement*, *Derogatory Remarks Policy Statement*, and *Non-Discrimination for Persons with Disabilities Policy Statement*) are also included in the "new-hire" packet.

3. The agency's EEO Policies are posted electronically on the agency's Intranet which can be accessed by clicking "NYC EEO Manual," and they are displayed throughout the agency on bulletin boards. In addition, 73% of respondents to the *EEPC's Employee Survey* indicated the policies were posted on agency bulletin boards or kept in an area otherwise accessible. The EEO staff regularly checks to ensure the material is current and accessible. During field visits, EEO staff, Liaisons and Contacts routinely check bulletin boards to confirm materials are prominently displayed.

Plan Dissemination – Externally

The DOHMH is in partial compliance with the following requirement:

Five internal job vacancy notices (Senior Health Care Program Planner/Analyst Level I, City Research Scientist, Level I; Computer Systems Manager, Level III; Administrative Public Health Nurse, Level I; and College Aide, Level II) and five newspaper advertisements (Licensed Ob/Gyn Physician, City Research Scientist, Level III, Public Health Sanitarian, Level I; Exterminator, and an open house seeking to fill Public Health Professionals, Nurses, Physicians, IT Professionals, Lab Professionals, Social workers, Pharmacists, and Administrative Professionals positions) submitted by the agency include the tag line "the DOHMH is an Equal Opportunity Employer." However, the statement did not also include the statement "the City of New York is an equal opportunity employer." Corrective action is required.

Recommendation: All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer. (Sect. IV, EEOP)

EEO for Persons with Disabilities and Reasonable Accommodations

The DOHMH is in compliance with the following requirements:

1. In accordance with the reasonable accommodations procedure of the City's EEO Policy, the DOHMH has provided accommodations for employees with disabilities upon request. The agency provided a list of accommodations granted. The DOHMH's EEO Officer is also the agency's Disability Rights Coordinator (DRC), whose responsibility is to handle reasonable accommodation requests and ensure compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities. The DRC maintained files on all requests for accommodation. During the period in review, 10 requests for accommodations (for office equipment, special equipment, and modifications of duties) were granted.

2. The DOHMH participates in the Section 55-A Program. The Assistant Commissioner/ Director of Employee Relations of Human Resources served (until May 2010) as the Section 55-A Program Coordinator. The EEO Officer is now the Section 55-A Program Coordinator. This individual provides consultation and counseling to employees. Information about the Program is included in the general EEO Policy Handbook and the training booklet, which is distributed during EEO training. The DOHMH's personnel officer informs the EEO Officer on a quarterly basis via email of the number of 55-A Program participants; currently, 35 employees participate.
3. The DOHMH's EEO policies are available in large print for use by applicants and employees with disabilities. Other alternative formats will be obtained upon request.

The DOHMH is in partial compliance with the following requirements:

1. Although the agency has appointed a Disability Rights Coordinator (DRC), 85% of respondents to the *EEPC's Employee Survey* indicated they did not know who the agency's DRC is. Corrective action is required.

Recommendation: To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the Personnel Officer should re-distribute the identity of the Disability Rights Coordinator. (Sect. VB, EEOP)

2. The DOHMH has completed its own survey for 31 of its city-owned facilities and submitted an accessibility checklist which asks whether the facility has a street accessible entrance and/or ramp access, wheelchair accessible elevators, bells and Braille in the elevators, wide restroom stalls, grab bars in the restrooms, and low sink or bathroom fixtures. Thirteen of the 31 facilities (Brooklyn: 1218 Prospect Pl., 295 Flatbush Ave., 335 Central Ave, 485 Throop Ave, 1601 Avenue S.; Bronx: 1309 Fulton Ave.; Queens: 90-37 Parsons Blvd. (main), 1826 Arthur Ave.; and Manhattan: 160 W. 100th St., 3030 Ninth Ave., 21 Old Broadway, 455 First Ave, 326 E. 110th St.) are compliant.

It is unclear whether 16 facilities (Brooklyn: 259 Bristol St., 2336 Linden Blvd., 130 Nostrand Ave, 151 Maujer St.; Manhattan: 158 East 115th St., 2238 5th Ave., 600 West 169th St.; Queens: 1839 42nd St., 90-37 Parsons Blvd. (annex), 34-33 Junction Blvd., 156-39 105th Ave.; Staten Island: 51 Stuyvesant Pl., 12-26 31st Ave. (info. On low sink bathroom fixtures not available), 3139 Veterans Road W. Bronx: 2527 Glebe Ave., 1826 Arthur Ave.) are fully compliant. One building (Bronx: 2556 Bainbrige Ave.) is vacant and renovation is in the planning phase. Another building 1337 Jerome Ave., is a storage facility for pest control.

In addition, the DOHMH also has another 18 locations at various DCAS buildings and other city owned buildings in Brooklyn, Bronx, Manhattan, and Queens. The

DOHMH did not provide accessibility checklist or survey for these buildings in response to the EEPC's request.

The DOHMH also submitted a list of all its leased locations throughout the five boroughs. The Associate Project Manager/Office of Facilities said, ".....that ADA compliance in leased locations is affirmed and evaluated by DCAS. The process of going into the agreement has each of those components built in."

The information that has been provided is not sufficient to make a finding of compliance/non-compliance in this area.

[Note: In January 2011 2,800 of the 3,800 DOHMH's downtown Manhattan employees will be relocated to a newly built building in Long Island City.]

Recommendation: Since the EEO Policy holds agencies responsible for ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should develop a plan to demonstrate accessibility compliance for the 34 facilities where compliance/non-compliance is undetermined. This plan should identify the number of locations and workstations that are accessible for employees/applicants with physical disabilities, identify barriers in non-accessible facilities, identify the distribution of job titles among accessible/non-accessible facilities, detail the efforts the DOHMH has taken to remove barriers, and identify the agency (if not DOHMH) responsible for rendering the facility accessible to employees/applicants with disabilities. The agency's plan will be reviewed during the compliance period. (Sect. VB, EEOP, Local Law 58, and ADAAG)

Discrimination Complaint and Investigation Procedures

The DOHMH is in compliance with the following requirements:

1. The EEO Officer receives and investigates discrimination complaints in conformance with Section III of the EEOP and the discrimination complaint procedures and implementation guidelines issued by the DCAS. The EEO Officer told EEPC Auditors that he has developed a new online database procedure for tracking internal complaints including inquiries from the initial stages to the end.
2. The EEO Officer maintains a monthly log of discrimination complaints filed against the agency. Copies of completed monthly complaint logs were submitted.
3. The agency head conducts a quarterly review of the EEO complaints. As a result of the agency heads review action is taken as needed based upon the individual circumstances. A meeting was held in December 2009.
4. The Associate General Counsel of the Office of the General Counsel is responsible for responding to external EEO complaints. The Associate General Counsel informs the EEO Officer when external EEO complaints or litigation have been brought against the agency. The general counsel takes responsibility for the investigation of,

and response to, external EEO complaints. There is ongoing interaction between the EEO Officer and Associate General Counsel

5. The DOHMH has two males (EEO Officer and EEO Investigator) and one female EEO Investigator available for complaint intake and investigation.
6. The agency identifies its EEO staff and Liaisons by posting their names, locations and numbers in the EEO Policy Handbook and training handbook.

The Agency EEO Staff (EEO Officer/Disability Rights Coordinator, EEO Investigators (2) Office Manager) completed the basic training course for EEO professionals conducted by the Department of Citywide Administrative Services/Office of Citywide Equal Employment Opportunity (DCAS/OCEEO). The Staff also completed the EEO Studies Program at the Cornell University's School of Industrial and Labor Relations (Cornell ILR).

The agency has 23 EEO Liaisons and 22 EEO Contacts. They are representative of the agency's bureaus/program areas and serve as an extension of the EEO office. The EEO Contacts are provided with training via the agency's EEO office. The EEO Contacts perform the following tasks: 1) Ensure that the EEO Policies are prominently and permanently displayed on bulletin boards and in common areas; 2) Attend quarterly EEO meetings; 3) Schedule staff for EEO Basic Training and Preventing Sexual Harassment Training; 4) Contact EEO for guidance and technical assistance; and 5) Have commitment to DOHMH's goals and vision.

The EEO Liaisons perform the following tasks: 1) Ensure that the EEO Policies are prominently and permanently displayed on bulletin boards and in common areas; 2) Assist EEO Staff; 3) Meet with complainants; 4) Work towards maintaining an EEO compliant work place; 5) Attend quarterly EEO meetings; 6) Schedule staff for EEO Basic Training and Preventing Sexual Harassment Training; 7) Contact EEO for guidance and of technical assistance; and 8) Have commitment to DOHMH's goals and vision.

EEO Internal Discrimination Complaint Files

The DOHMH submitted 10 internal discrimination complaint files to the EEPC for review:

1. Eight of the 10 internal complaint files submitted (#090402, #070802, #081206, #081203, #081201, #080101, #070701, and #061001) were not closed within 90 days of the date on which the complaint was filed and no Delay Notification Letters were placed in the files. Corrective action is required.

Recommendation: In rare circumstances where the investigation cannot commence immediately, or where the confidential report cannot be issued within 90 days, a note should be made in the complaint file explaining the reason for the delay and projecting a

time frame for completion of the report. The complainant, respondent and DCAS-Citywide EEO should be notified of the delay in writing. (DCPIG, 4/2/96 *Amendments to the EEO Discrimination complaint & Investigation Procedures*)

2. Four of the 10 internal complaint files submitted (#081201, #081205, #061001, and #070701) did not contain any notes of interviews conducted with the complainant, respondent or witnesses. Corrective action is required.

Recommendation: Because the DCPIG requires the investigator to report words spoken and facts provided as close to verbatim as possible, complaint files must contain thorough word processed notes, for each interview. (Sect. 12b, DCPIG and EEPC Position)

3. Five of the 10 internal complaint files submitted (#081206, #081207, #081203, #081201, and #081205) were not labeled "confidential." Corrective action is required.

Recommendation: All confidential written reports should be labeled "Confidential" in large bold print. (DCPIG, Sect. 12b)

EEO Training

The DOHMH is in compliance with the following requirement:

The EEO Officer and one EEO Investigator/ Trainer conduct EEO training for staff. The EEO Officer's qualifications include 25 years of progressively higher positions within the EEO function. The EEO Investigator/ Trainer's qualifications include 13 years EEO experience. She received training from Cornell University School of Industrial and Labor Relations and the DCAS training for EEO professionals.

The DOHMH has developed a plan to train all new and existing employees on EEO. The training curriculum, which the DOHMH submitted, is approved by DCAS/DCEEO. New employees receive EEO information at monthly new-hire orientation training. All employees can receive online EEO training via the agency's Intranet, which is continuously available. A total of 4,738 staff has been trained. The trainers provide four-hour classroom training on EEO Basics, on average three times per month to staff. A total of 2,525 staff has been trained. In addition, 79% of respondents to the *EEPC's Employee Survey* indicated that they received EEO training during the past two years.

They also provide four-hour classroom training on Preventing Sexual Harassment, on average three times per month to staff. In addition, 82% of the respondents to the *EEPC's Manager/Supervisor Survey* indicated they received sexual harassment prevention training and the majority of those respondents (82%) said they received the training within the past two years. Additionally, the DCAS EEO CBT (for Managers) was implemented in May 2009. To date, 1,239 individuals have completed the course. The agency submitted a listing of all employees who received EEO training.

Selection and Recruitment

The DOHMH is in compliance with the following requirements:

1. The DOHMH utilizes discretionary applicant forms that include the name, gender, and ethnicity of the applicant, the reason for selection/rejection, and the source of recruitment.
2. The EEO Officer is involved in developing recruitment strategies and selecting recruitment media. He interacts with the Recruitment Team to ensure that efforts are directed to a diverse population. In addition, the agency is part of the DCAS E-Hire Process and has been doing online applications since 2005. This process enables the agency to recruit top talent from a larger applicant pool. It enables external applicants to create and maintain standard individual profiles; search for jobs online; apply for jobs online without having to re-key application data multiple times; self-identify race/ethnicity; receive automatic application submission notification; determine job posting application status; complete the Comprehensive Personnel Document online.
3. The DOHMH placed several advertisements during the audit period. It provided a list of newspapers, journals, publications, colleges/ universities and websites it used for recruitment purposes. It also provided information on Disability Mentoring Day, which is a large-scale, broad-based effort designed to promote career development for students and job seekers with disabilities (mentees) through hands-on career exploration; job shadowing, and matching of mentee/mentor relationships.

The DOHMH is not compliance with the following requirement:

Seventy-eight percent of the respondents to the *EEPC's Manager/Supervisor Survey* indicated they interviewed candidates for positions. Of those respondents 21% indicated they received structured interview training, 34% said they received a structured interviewing guide, and 22% said they received both the training and the guide. The DOHMH conducted structured interview training for 163 individuals during 2005. During the period in review, 10 individuals received structured interview training. It submitted the course material and attendance sheets. Corrective action is required.

Recommendation: The agency should ensure that all employees involved in job interviewing receive formal training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview that standardizes the type and order of interview questions asked to ensure that a fair comparison can be made between interviewees. (Sect. IV, EEOP)

Promotional Opportunities

The DOHMH is in compliance with the following requirements:

1. The DOHMH utilizes the citywide managerial performance evaluation form, which includes a rating for EEO. Section B: Administering Financial, Material and Human Resources, covers responsibilities and processes for assuring that people are appropriately employed, effectively and efficiently utilized, and dealt with in a fair and equitable manner.

2. The DOHMH has designated an individual familiar with civil service and provisional jobs to serve as career counselor. She provided career counseling to over 150 employees annually and devotes about 10% of her time on career counseling matters. Employees are aware of her identity through an agency announcement and the Intranet.

The DOHMH is in partial compliance with the following requirement:

Eighty percent of respondents to the *EEPC's Employee Survey* indicated that they did not know the name of the person in the agency that is responsible for providing career counseling. Corrective action is required.

Recommendation: To ensure that employees know the identity of the agency's Career Counselor, the Personnel Officer should re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor, at least once each fiscal year. (Sect. VB, EEOP and 12/14/2006 Addendum to *Standards and Procedures to Be Utilized By City Agencies (2005)*)

Supervisory Responsibility in EEO Plan Implementation

The DOHMH is not in compliance with the following requirement:

Forty-three percent of respondents to the *EEPC's Employee Survey* indicated that their manager /supervisor did not discuss the agency's commitment to the principle of Equal Employment Opportunity during staff meetings within the past year. Also, 61% of the respondents to the *EEPC's Manager/Supervisor Survey* indicated they did not discuss the agency's commitment to the principle of Equal Employment Opportunity during staff meetings at least twice within the past year.

Forty-eight percent of respondents to the *EEPC's Employee Survey* indicated that their manager /supervisor did not discuss the right of employees to file discrimination complaints with the EEO office during staff meetings within the past year. Also, sixty-three percent of the respondents to the *EEPC's Manager/Supervisor Survey* indicated they did not discuss the right of employees to file discrimination complaints with the EEO office during staff meetings at least twice within the past year. Corrective action is required.

Recommendation: At least twice a year during normal staff meetings, managers and supervisors must 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. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position)

EEO Officer Reporting Arrangement

The DOHMH is in compliance with the following requirement:

The organization chart submitted to EEPC shows a reporting relationship between the EEO Officer and the agency head.

The DOHMH is in partial compliance with the following requirement:

The EEO Officer reports directly to the agency head on EEO matters and meets with him as needed; however, he did not prepare an agenda and keeps notes of those meetings. Corrective action is required.

Recommendation: Because the EEOP requires the EEO Officer to report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding decisions that impact the administration of the agency's EEO program must be maintained. (Sect. VB, EEOP, and EEPC Position)

EEO Officer Responsibilities

The DOHMH is in compliance with the following requirement:

The DOHMH's EEO Officer spent 100% of his time on EEO matters. As of June 1, 2010, he has also acquired additional responsibilities—Executive Director of Workforce Development and Section 55-A Coordinator. He is also in charge of Training and Development, WEP and he is the Disability Rights Coordinator.

Reporting Standards

The DOHMH is in compliance with the following requirement:

The agency submitted three quarterly reports and one annual report to the EEPC for FY 2006, FY 2007, and FY 2008.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer is an equal opportunity employer. (Sect. IV, EEOP)
2. To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, Personnel Officer should re-distribute the identity of the Disability Rights Coordinator. (Sect. VB, EEOP)
3. Since the EEO Policy holds agencies responsible for ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should develop a plan to demonstrate accessibility compliance for the 34 facilities where compliance/non-compliance is undetermined. This plan should identify the number of locations and workstations that are accessible for employees/applicants with physical disabilities, identify barriers in non-accessible facilities, identify the distribution of job titles among accessible/non-accessible facilities, detail the efforts the DOHMH has taken to remove barriers, and identify the agency (if not DOHMH) responsible for rendering the facility accessible to employees/applicants with disabilities. The agency's plan will be reviewed during the compliance period. (Sect. VB, EEO, Local Law 58 and ADAAG)
4. In rare circumstances where the investigation cannot commence immediately, or where the confidential report cannot be issued within 90 days, a note should be made in the complaint file explaining the reason for the delay and projecting a time frame for completion of the report. The complainant, respondent and DCAS-Citywide EEO should be notified of the delay in writing. (DCPIG, 4/2/96 *Amendments to the EEO Discrimination complaint & Investigation Procedures*)
5. Because the DCPIG requires the investigator to report words spoken and facts provided as close to verbatim as possible, complaint files must contain thorough word processed notes, for each interview. (Sect. 12b, DCPIG and EEPC Position)
6. All confidential written reports should be labeled "Confidential" in large bold print. (DCPIG, Sect. 12b)
7. The agency should ensure that all employees involved in job interviewing receive formal training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview that standardizes the type and order of interview questions asked to ensure that a fair comparison can be made between interviewees. (Sect. IV, EEOP)

8. To ensure that employees know the identity of the agency's Career Counselor, the Personnel Officer should re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor, at least once each fiscal year. (Sect. VB, EEOP and 12/14/2006 Addendum to *Standards and Procedures to Be Utilized By City Agencies (2005)*)
9. At least twice a year during normal staff meetings, managers and supervisors must 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. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position)
10. Because the EEOP requires the EEO Officer to report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding decisions that impact the administration of the agency's EEO program must be maintained. (Sect. VB, EEOP, and EEPC Position)

In addition to the above recommendations, during the compliance process, the Commission requires that the agency head distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO program pursuant to the audit. This memorandum should re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

Conclusion

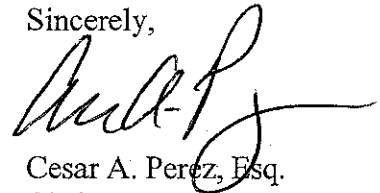
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of DOHMH's compliance with its Equal Employment Opportunity Policy and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, as amended in 1999, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend to the Mayor the appropriate corrective actions that you should implement in your agency's EEO Plan.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cesar A. Perez', with a long horizontal flourish extending to the right.

Cesar A. Perez, Esq.
Chair

APPENDIX - 1

DEPARTMENT OF HEALTH & MENTAL HYGIENE
EMPLOYEE SURVEY RESULTS

Employees = 4515 Survey Respondents = 1447 32%

A. GENERAL OVERVIEW

1. Equal Employment Opportunity (EEO) guarantees the right of all persons to be accorded full and equal consideration on the basis of merit, regardless of protected group status. Do you agree with this principle?
Yes (1317) No (86)
2. Do you know who your agency's EEO Officer is?
Yes (737) No (693)
3. Is the City's EEO Policy posted on your agency's bulletin boards or kept in an area otherwise accessible to employees?
Yes (1023) No (375)
4. Were you given a copy of the EEO Policy Handbook - About EEO: What You Need to Know?
Yes (1137) No (249)
5. Do you believe your agency practices equal opportunity (i.e. ensures fairness in all aspects of employment including hiring, selection, promotions, etc.)?
Yes (857) No (504)

6. Has your manager or supervisor discussed the agency's commitment to the principle of Equal Employment Opportunity during staff meetings at least twice within the past year?
Yes (382) No (596) Do not remember (414)
- Has your manager or supervisor discussed employees' right to file a discrimination complaint with the agency's EEO Officer during staff meetings at least twice within the past year?
Yes (355) No (660) Do not remember (370)
8. When hired, were you advised of the City's EEO policies, and of your rights and responsibilities under such policies?
Yes (923) No (145) Do not remember (330)

B. EEO COMPLAINTS

9. Do you know how to file an EEO complaint?
Yes (918) No (481)
10. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (822) No (179) Undecided (405)
11. Would you prefer to file an EEO complaint with an office outside your agency rather than your agency's EEO Office?
Yes (522) No (400) Undecided (480)
12. During the past 3 years, did you file a complaint with your agency's EEO Office?
Yes (55) No (1352)
13. Was your manager or supervisor supportive of your right to file a complaint?
Yes (84) No (65) Not Applicable (1241)

C. EEO TRAINING

14. During the past 2 years, did you receive EEO training?
Yes (1097) No (292)
15. How informative was this training?
Very informative (533) Somewhat informative (505)
Not really informative (72) Not Applicable (274)

SURVEY RESULTS CONTINUED

D. JOB PERFORMANCE/ADVANCEMENT

Does your agency use training and development programs in order to improve job performance and/or career opportunities?

Yes (929) No (259) I do not know (206)

17. Were vacant positions advertised on bulletin boards or other areas accessible to employees in a timely manner?

Yes (741) No (411) Do not remember (248)

18. The Personnel Rules and Regulations of the City of New York and the Guidelines for Evaluating Managerial Performance in NYC Agencies require that all employees (managerial and non-managerial) receive at least one performance evaluation a year. Have you received annual performance evaluations within the past 2 years?

Yes (1004) No (309) Employed for less than 12 mos (83)

19. Did your evaluation contain recommendations for improving your job performance?

Yes (643) No (330) Not Applicable (0)

20. Did your evaluation contain recommendations for career advancement with your agency?

Yes (331) No (646) Not Applicable (0)

21. Do you know the name of the person in your agency that is responsible for providing career counseling?

Yes (276) No (1119)

E. SPECIFIC PROTECTIONS

22. Do you know who your agency's Disability Rights Coordinator is?

Yes (216) No (1185)

The City's EEO Policy requires that agencies take appropriate action to reasonably accommodate qualified employees and applicants with disabilities, and those who are victims of domestic violence, sex offenses, or stalking, to enable them to perform their jobs or enjoy equal benefits and privileges of employment. It also requires agencies to provide reasonable accommodations for the religious observances, beliefs and practices of an employee or applicant. During the past 3 years, did you ask for a reasonable accommodation due to any of the above?

Yes (164) No (1236)

24. Was your accommodation granted?

Yes (158) No (464)

OPTIONAL INFORMATION

25. Race/Ethnicity

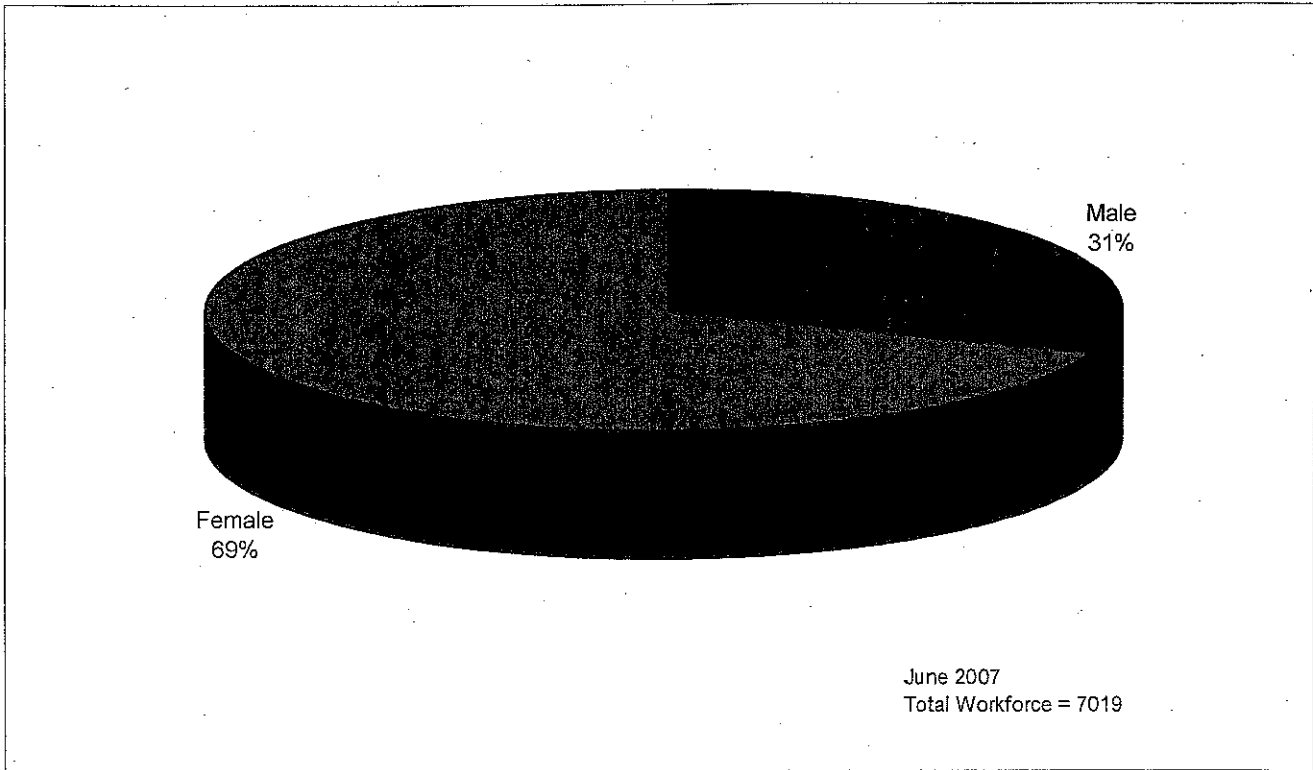
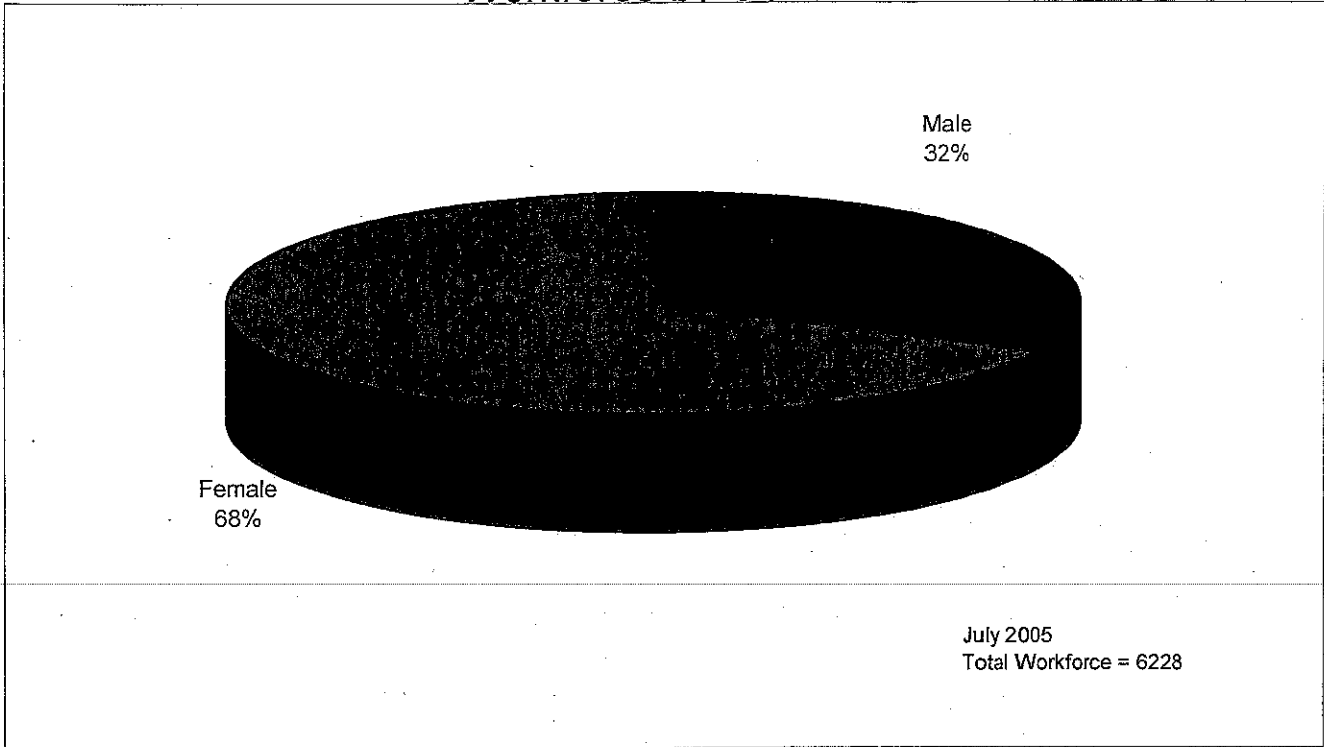
Asian or Pacific Islander (0)	Hispanic (169)
American Indian or Alaska Native (4)	White (not of Hispanic origin) (440)
Black (not of Hispanic origin) (431)	Other (74)

26. Gender

Male (380) Female (928)

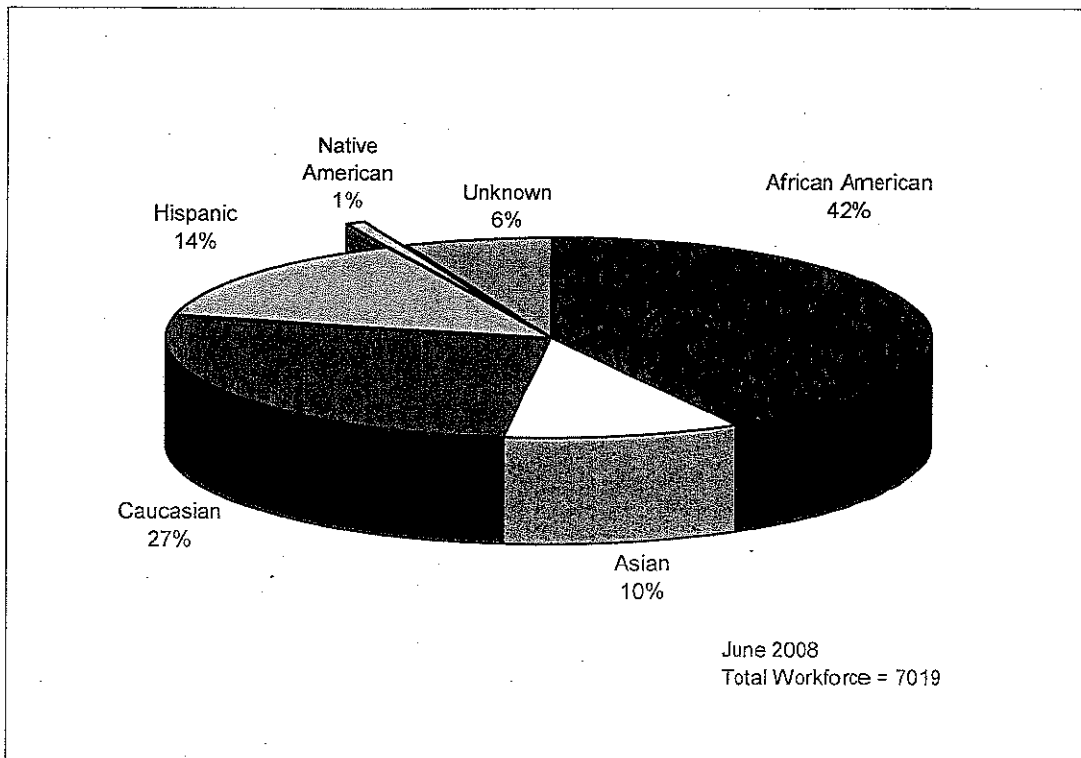
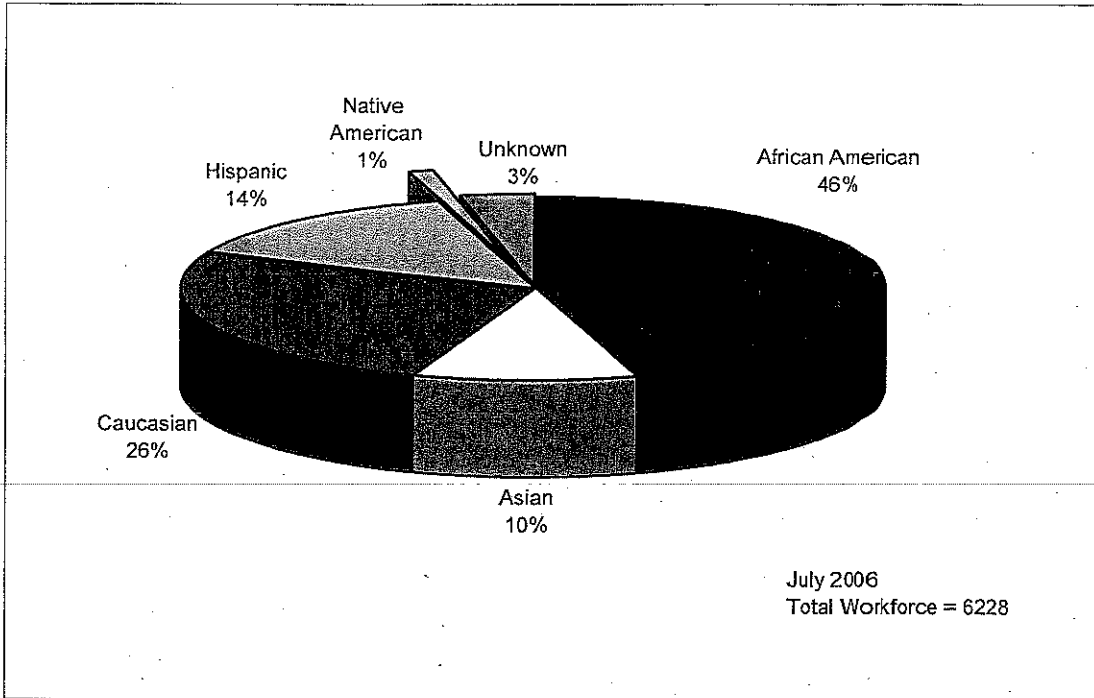
Appendix - 2

Department of Health Mental Hygiene Workforce by Gender



Appendix - 3

Department of Health and Mental Hygiene
Workforce by Ethnicity



APPENDIX – 4

The following table indicates personnel activity during the audit period, January 1, 2006 to December 31, 2008

Department of Health and Mental Hygiene

Hires by Sex and Ethnicity

Total Hires: 3,363

Male	Female	Total	Caucasian	African American	Hispanic	Native American	Asian	Unknown	Total
944	2419	3363	1007	1146	454	14	417	325	3363

Promotions by Sex and Ethnicity

Total Promotions: 1,815

Male	Female	Total	Caucasian	African American	Hispanic	Native American	Asian	Unknown	Total
550	1265	1815	530	734	279	18	211	43	1815

Separations by Sex and Ethnicity

Total Separations: 2,571

Male	Female	Total	Caucasian	African American	Hispanic	Native American	Asian	Unknown	Total
770	1801	2571	739	1035	345	15	338	99	2571

Source: Audit data supplied by DOHMH

DEPARTMENT OF HEALTH & MENTAL HYGIENE
SUPERVISOR/MANAGER QUESTIONNAIRE RESULTS

Total Supervisors = 494 Completed Questionnaire = 219 (44%)

1. Which of the following are you?
 Supervisor (59) Manager (160)

2. How many employees are under your supervision?
 Less than 5 (85) 11 - 20 (23)
 6 - 10 (50) 21 or more (60)

3. How long have you worked for this agency?
 3yrs or less (45) Over 3 yrs (173)

4. Each agency head may distribute a statement in support of Equal Employment Opportunity to all employees. Have you received a copy of your agency's EEO Policy Statement?
 Yes (178) No (40) Do not remember (0)

5. In your agency, where can the City's EEO Policy be found?
 In the EEO Office (4) In my office (18)
 In the HR/Personnel Office (16) I do not know (21)
 On the Intranet (60)

6. Of the choices indicated, which is most easily accessible to you?
 The EEO Office (4) Your Office (37)
 The HR/Personnel Office (10) Not applicable (3)
 The Intranet (161)

7. Is the Discrimination Complaint Procedure included with the EEO Policy?
 Yes (146) No (4) Do not know (63)

8. Do you know the name of your agency's EEO Officer?
 Yes (119) No (55) Do not know (42)

9. Did the EEO Officer meet with you to discuss your EEO rights as an employee?
 Yes (73) No (136)

10. Did the EEO Officer meet with you to discuss your EEO responsibilities as a supervisor or manager?
 Yes (69) No (145)

11. Did you complete the Department of Citywide Administrative Services' (DCAS) Division of Citywide EEO Computer based Training?
 Yes (203) No (13)

12. In your role as a supervisor/manager, have you discussed the agency's commitment to the principle of Equal Employment Opportunity during staff meetings at least twice within the past year?
 Yes (83) No (130)

13. In your role as a supervisor/manager, have you discussed with employees their right to file a discrimination complaint with the agency's EEO Officer during staff meetings at least twice within the past year?
 Yes (80) No (136)

14. Did you receive sexual harassment prevention training from your agency?
 Yes (179) No (38)

15. Please indicate when the training was done.
 Within the past 2 years (143) over 2 years ago (31)

16. Did all of the employees that you supervise receive sexual harassment prevention training?
 Yes (120) No (19) Do not know (79)

DOHMH SUPERVISOR/MANAGER QUESTIONNAIRE CONTINUED

17. When you were hired, did you receive an orientation session that included a review of the City's EEO Policy?

Yes (118) No (25) Do not remember (74)

18. Do you participate in orientation sessions for new employees?

Yes (77) No (140)

19. Do new employee orientation sessions include information on the City's EEO Policy?

Yes (132) No (4) Do not know (83)

20. Do you interview candidates for positions in your agency?

Yes (171) No (48)

21. If you are involved in interviewing job applicants, did your agency provide you with training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview?

Training (36) Both training and guide (38)
Guide (57) I do not interview applicants (39)

22. When was your last performance evaluation?

Within the past year (114) Over a year ago (99)

23. Were you informed that fulfillment of your EEO responsibilities will be part of your overall performance evaluation and will be considered in determining your eligibility for promotions and merit increases?

Yes (65) No (126) Not applicable (24)

24. Does your performance evaluation include an EEO component? (A section that rates your ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner.)

Yes (77) No (119) I do not receive performance evaluations (0)

25. Do you conduct formal evaluations of the employees under your supervision annually?

Yes (177) No (37)

26. Do you believe the agency has provided sufficient training to supervisors/managers on their responsibilities in assisting employees who may complain about discrimination or harassment?

Yes (148) No (65)

OPTIONAL INFORMATION

27. Race/Ethnicity

Asian or Pacific Islander (0)	Hispanic (14)
American Indian or Alaskan Native (0)	White (84)
Black (48)	Other (11)

28. Gender

Male (51) Female (133)

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 OMIS CITYWIDE PERSONNEL PRODUCTION SYSTEMS
 PERSONNEL REPORTING AND INFORMATION SYSTEM FOR EMPLOYEES (PRISE)
 WORKFORCE SUMMARY AS OF DECEMBER 31, 2008

DEPARTMENT OF SOCIAL SERVICES (069)

JOB GRP	MALE										FEMALE										TOTAL				
	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	OTHER	TOTAL											
001	0	0	1	0	0	1	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	
002	132	60	19	24	0	0	89	133	45	19	0	0	0	0	0	0	0	0	0	0	0	0	0	0	521
003	117	122	39	40	0	0	99	276	63	29	0	1	0	0	0	0	0	0	0	0	0	1	0	0	786
004	163	73	26	72	2	0	74	70	9	38	0	1	0	0	0	0	0	0	0	0	0	0	0	0	528
005	11	2	1	1	0	0	7	15	6	4	0	0	0	0	0	0	0	0	0	0	0	0	2	0	49
007	251	1184	342	150	2	1	494	3284	1204	193	12	1	0	0	0	0	0	0	0	0	0	0	0	0	7118
008	21	5	5	7	0	0	39	15	2	3	0	1	0	0	0	0	0	0	0	0	0	1	0	0	98
009	1	2	0	1	0	0	2	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9
010	67	245	69	40	0	0	32	417	121	11	3	0	0	0	0	0	0	0	0	0	0	0	0	0	1005
012	39	161	48	21	0	0	55	885	159	33	8	0	0	0	0	0	0	0	0	0	0	0	0	0	1409
013	55	240	72	18	1	2	108	1048	313	45	4	3	0	0	0	0	0	0	0	0	0	3	0	0	1909
015	1	2	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4
018	5	27	9	0	0	0	1	15	3	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	61
021	0	2	2	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6
022	5	58	15	3	1	0	2	11	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	105
024	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
025	51	22	10	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	84
026	2	5	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	8
027	0	5	3	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	10
028	5	5	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12
031	8	28	11	3	1	0	10	41	33	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	137
TOTAL	935	2248	673	382	8	4	1017	6215	1970	379	27	7	2	13867											
%TAGE	7%	16%	5%	3%	<1%	<1%	7%	45%	14%	3%	<1%	<1%	<1%	100%											

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 OMIS CITYWIDE PERSONNEL PRODUCTION SYSTEMS
 PERSONNEL REPORTING AND INFORMATION SYSTEM FOR EMPLOYEES (PRISE)
 WORKFORCE SUMMARY AS OF DECEMBER 31, 2006

REPORT: PBUTNO31

DEPARTMENT OF HEALTH & MENTAL HYGIENE (816)

JOB GRP	MALE							FEMALE							TOTAL
	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	OTHR		
001	6	0	1	0	0	0	2	1	1	0	0	0	0	11	
002	100	28	9	14	0	0	104	70	22	17	0	0	0	364	
003	105	165	49	42	0	0	167	453	158	64	1	1	2	1207	
004	131	54	34	78	0	1	218	105	45	96	0	0	0	762	
005	72	33	5	30	0	0	364	401	57	118	2	0	6	1088	
006	7	3	4	0	0	0	11	13	2	0	0	0	0	40	
007	0	9	0	0	0	0	2	33	3	0	1	0	0	48	
008	12	1	1	2	0	0	27	6	0	0	0	0	0	49	
009	3	0	0	0	0	0	3	2	0	0	0	0	0	10	
010	45	164	45	44	1	0	25	151	41	23	1	0	2	542	
012	3	19	10	3	0	0	31	202	53	14	1	0	0	336	
013	27	77	26	9	1	0	46	296	102	19	2	2	1	608	
015	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
018	3	20	11	1	0	0	0	11	4	0	0	0	0	50	
019	5	11	6	3	0	0	1	11	1	0	1	0	0	39	
021	0	13	1	2	0	0	36	125	35	5	0	1	5	223	
022	14	91	55	1	1	0	4	26	11	0	0	0	0	203	
025	26	6	8	2	0	0	0	0	0	0	0	0	0	42	
026	3	1	2	2	0	0	0	0	0	0	0	0	0	8	
027	12	40	23	3	0	0	2	7	1	0	0	0	0	88	
028	6	15	6	2	0	0	0	3	2	0	0	0	0	34	
030	5	11	5	2	0	0	11	73	18	7	0	0	0	132	
031	29	58	20	10	0	0	64	126	54	18	4	0	5	388	
TOTAL	615	819	321	250	3	1	1118	2115	610	383	13	4	21	6273	
%TAGE	10%	13%	5%	4%	<1%	<1%	18%	34%	10%	6%	<1%	<1%	<1%	100%	

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 OMIS CITYWIDE PERSONNEL PRODUCTION SYSTEMS
 PERSONNEL REPORTING AND INFORMATION SYSTEM FOR EMPLOYEES (PRISE)
 WORKFORCE SUMMARY AS OF DECEMBER 31, 2007

REPORT: PBUTNO31

DEPARTMENT OF HEALTH & MENTAL HYGIENE (816)

JOB GRP	MALE					FEMALE					TOTAL				
	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	WHITE	BLACK	HSPN	ASIAN	NATIVE AMER	UKWN	OTHR	TOTAL	
001	6	0	0	0	0	0	1	1	1	0	0	0	0	9	
002	112	33	13	17	0	2	130	88	22	20	0	8	0	445	
003	110	164	55	46	0	5	197	525	193	68	1	47	0	1411	
004	137	51	33	83	0	5	255	117	46	99	0	24	1	851	
005	71	39	6	23	0	0	375	401	62	131	1	0	3	1112	
006	7	2	3	0	0	0	11	11	3	0	0	0	0	37	
007	0	10	1	0	0	0	4	39	6	0	0	0	0	60	
008	11	2	2	2	0	0	29	6	0	0	0	0	0	52	
009	4	0	0	0	0	0	3	2	0	2	0	0	0	11	
010	39	155	49	44	1	0	25	139	42	28	1	0	2	525	
012	5	26	12	6	0	0	33	237	69	15	2	0	0	405	
013	30	76	32	11	1	0	55	333	97	20	3	4	1	663	
015	1	0	0	0	0	0	0	0	0	0	0	0	0	1	
018	5	23	11	1	0	0	0	17	5	0	0	0	0	62	
019	5	16	10	3	0	0	1	17	1	0	1	0	0	54	
021	0	15	3	4	0	0	38	135	51	10	1	0	0	257	
022	14	92	52	2	1	0	3	24	13	0	1	0	0	202	
025	31	6	9	3	0	0	0	0	0	0	0	0	0	49	
026	3	1	2	2	0	0	0	0	0	0	0	0	0	8	
027	12	39	26	4	0	0	4	7	3	0	0	0	0	95	
028	5	15	6	2	0	0	0	1	2	0	0	0	0	31	
030	3	10	5	2	0	0	11	68	17	8	0	0	0	124	
031	24	51	18	13	0	5	57	119	43	25	3	6	2	366	
TOTAL	635	826	348	268	3	17	1232	2297	676	426	14	89	9	6830	
%AGE	9%	12%	5%	4%	<1%	<1%	18%	34%	10%	6%	<1%	<1%	<1%	100%	



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas Farley, MD, MPH
Commissioner

10382

125 Worth Street, Suite 331
New York, NY 10013

+ 1 212 788 5260 tel
+ 1 212 964 0472 fax

July 30, 2010

Abraham May, Jr.
Executive Director
NYC Equal Employment Practices Commission
40 Rector Street, 14th Floor
New York, NY 10006-1728

Re: Notice of Preliminary Determination dated June 25, 2010

Dear Mr. May:

The following is the Agency response to your audit recommendations set forth in the Notice of Preliminary Determination dated June 25, 2010 (covering the period January 1, 2006 and ending December 31, 2008).

1. Plan Dissemination (p.5)

The recommendation is, "all agency recruitment literature should indicate that the agency and the City of New York, is an equal opportunity employer."

Corrective Action:

By email dated June 29, 2010, Deborah Lew, Director, Recruitment, notified the Posting Coordinator (Linda Raymond) and Recruiters (Carol Pope and Margaret A. Piggott) to change all future postings to reflect the recommended terminology. The following link <http://sh.webhire.com/servlet/av/jd?ai=741&ji=2423504&sn=I> evidences, the posting issued on 07/01/2010 states, "The City of New York/NYC Department of Health and Mental Hygiene is an Equal Opportunity Employer."
Attachment # 1

2. EEO for persons with Disabilities and Reasonable Accommodations (p.5)

The recommendation is, "To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the Personnel Officer should re-distribute the identity of the Disability Rights Coordinator."

Corrective Action:

I disseminated an email to all employees on June 23, 2010 @ 5:32 PM, stating, "The DOHMH Disability Rights Coordinator" is Mitchell Sturman, Executive Director, Workforce Development. He can be contacted at msturman@health.nyc.gov Attachment # 2

3. EEO for persons with Disabilities and Reasonable Accommodations (p.6)

The recommendation is in pertinent part, "to develop a plan to demonstrate accessibility compliance for the 34 facilities where compliance/non-compliance is undetermined."

Corrective Action:

The requested accessibility checklist for each of the facilities, owned or leased, has been completed and is attached. A review of the documents indicates the Agency has met its obligations to ensure that all facilities are in compliance. Attachment # 3

4. EEO Internal Discrimination Complaint Files (p.8)

The recommendations are: a) when the confidential report cannot be issued within 90 days, a note should be made to the file explaining the reason for the delay and the projected timeframe for completion; b) complaint files must contain thorough word processed notes, for each interview; and c) investigative files were not labeled "confidential."

Corrective Action:

All EEO staff have been instructed to make every effort to ensure that investigations are completed within 90 calendar days. In the rare instance when that does not occur, instructions have been issued to notify the complainant, in writing, of the delay and the expected date of completion. The instructions have also included the mandate that all investigative interviews are formalized in writing and included in the case file. EEO files have access restricted to EEO personnel and each file is annotated that the contents are "confidential."

5. Selection and Recruitment (p.10)

The recommendation is to ensure that all employees involved in job interviewing receive formal training and/or a guide that outlines illegal or discriminatory questions.

Corrective Action:

A list has been generated of the individuals identified as Hiring Managers. The list will be validated and names added or deleted as appropriate. Once finalized, the individuals not previously trained will complete a "Structured Interview" training course.

6. Promotional Opportunities (p.11)

The recommendation is to re-distribute to all employees the identity and type of guidance available from the Career Counselor.

Corrective Action:

In the email disseminated to all employees on June 23, 2010, they were informed that, "Career Counseling regarding employee needs, interests and areas of skills enhancement, is available by contacting Nayeem A. Mohammed at nmohamme@health.nyc.gov Attachment # 2

7. Supervisory Responsibility (p.11)

The recommendation is that at least twice per year managers and supervisors must emphasize their commitment to the EEO Policy and document such meetings.

Corrective Action:

In the email disseminated to all employees on June 23, 2010, I reiterated my personal commitment to achieving the principles of Equal Employment Opportunity. Further, I directed all managers and supervisors to reiterate their commitment to EEO, at a minimum semi-annually, during meetings. Attachment # 2

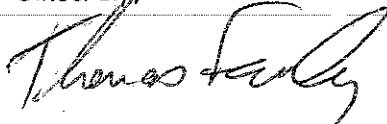
8. EEO Officer Reporting Arrangement (p.12)

The recommendation is to document meetings and communications between the EEO Officer and Agency Head.

Corrective Action:

A meeting was held on June 30, 2010 and the agenda including Meeting Minutes was prepared. Attachment # 4

Sincerely,



Thomas A. Farley, MD, MPH
Commissioner

Mitchell Sturman

ATTACHMENT #1 (3 pages)

From: Mitchell Sturman
Sent: Wednesday, June 30, 2010 6:22 AM
To: Marecheau-Antoine, Michelle
Cc: Hendricks, Charise
Subject: FW: EEO Statement

Good morning, I hope all is well.

I just wanted to share with you some additional action toward compliance.

Have a great day,

Mitchell Sturman
NYC DOHMH
Executive Director, Workforce Development
93 Worth St. Room 1114
New York, NY 10013-3412
Tel. No. 212-219-5250
Fax No. 212-219-5259
Cell No. 347-213-1167
email: msturman@health.nyc.gov

From: Deborah Lew
Sent: Tuesday, June 29, 2010 2:41 PM
To: Linda Raymond; Carol Pope; Margaret Piggott
Cc: Mitchell Sturman
Subject: EEO Statement

Linda - Posting Coordinator
Carol - Recruiter
Margaret - Recruiter

The DOHMH/City of New York is an equal opportunity employer.

Please use the above statement in all ads and all postings. This replaces what we used earlier, which is DOHMH is an equal opportunity employer.

Debbie Lew
Human Resources
NYC Department of Health and Mental Hygiene
125 Worth Street | Box 39, Rm 930 | New York, NY 10013
P 212.788.4859 | F 212.788.4610 | E dlw@health.nyc.gov
nyhealthcareers.com



NEW YORK CITY DEPARTMENT of HEALTH and MENTAL HYGIENE

[> Home](#)

Job Search

[> Benefits](#)

Civil Service Title: Computer Specialist (Software)
Office Title: Application Support Administrator (Computer Specialist (SW), I)

[> Culture/Environment](#)

Bureau: (DIS.1) Bureau of Communicable Diseases

[> Diversity](#)

Location: Manhattan

JVN #: 816-11-133873

[> About Us](#)

Salary Range: \$69,097 - \$86,117 (Full-time)

Number of Positions: 1

[> Internship Program](#)

Job Summary:

The Division of Disease Control, Bureau of Communicable Disease tracks 73 infectious diseases and investigates outbreaks in New York City. The Bureau seeks a qualified individual to take a hands-on role in planning, configuration, implementation and maintenance of a customized web-based enterprise system that will be used to conduct outbreak investigations as well as collect and monitor trends in routine communicable disease surveillance data.

[> Residency Program](#)
[> Job Search](#)

The Application Support Administrator will provide technical expertise and support to the end-users throughout the Bureau. The ideal candidate will be customer-service oriented and a problem solver with strong technical skills, able to quickly identify and address critical elements in complex technical or business processes, and able to take initiative, work independently, and collaborate effectively with others.

[> Priority Jobs](#)

As the Application Support Administrator, your duties will include:

-- In conjunction with the vendor and the NYC DOHMH IT Division, configure the database application to meet the bureau's needs (such as modify and/or create question packages, workflows, templates, reports).

-- Plan for, conduct and evaluate user acceptance training.

-- In collaboration with the software vendor, address gaps identified during user acceptance testing.

-- Review and as needed, update training materials.

-- Perform end-user training.

-- Provide ongoing configuration and support of the application post production, including but not limited to diagnosing, troubleshooting and resolving system- Specific issues and providing 'How-to' training assistance to the end-users as needed.

-- Communicate key issues and updates to the key stakeholders including end-users.

-- Determine when issues require the assistance of application or subject matter experts to resolve the issue.

-- Research issues that require further guidance from business or technical staff members assigned to work with the Application Support team.

-- Serve as an application expert for the Bureau.

-- Track, document, and update cases in the Issue Tracking system.

-- Provide status updates on the deliverables to the Program Manager.

PREFERRED SKILLS:

Hands-on experience in managing enterprise-wide solutions; competence in programming in Java/JSP and SQL; experience providing application support to end users for commercial software or custom designed business applications, and the ability to communicate effectively with both technical and business staff to communicate issues clearly; excellent working knowledge of PC and web based applications in Windows XP environment; good working knowledge of Microsoft Office, Outlook / Exchange, Adobe Acrobat and other commercial desktop software; proven track record of

handling customer service issues with diplomacy, tact, and a sense of urgency; excellent technical, communication and writing skills; ability to work with end-users, technical staff, and upper management; experience with project management; experience in public health and/or infectious disease surveillance/outbreak response a plus, but not required.

Experience Required:

1. A Baccalaureate degree from an accredited college, including or supplemented by 24 semester credits in computer science or a related computer field and two years of satisfactory full-time computer software experience in computer systems development and analysis, applications programming, database administration, systems programming, data communications, including one year in a project leader capacity or as a major contributor on a complex project; or
2. A four-year High School diploma or its educational equivalent and six years of satisfactory full-time computer software experience as described in (1) above, including one year in a project leader capacity or as a major contributor on a complex project; or
3. Education and/or experience equivalent to (1) or (2) above. College education may be substituted for up to two years of the required experience in (2) above on the basis that 60 semester credits from an accredited college is equated to one year of experience. A Masters degree in computer science or a related computer field may be substituted for one year of the required experience in (1) or (2) above. However, all candidates must have at least a four-year high school diploma or its educational equivalent and at least one year of satisfactory full-time experience in a project leader capacity or as a major contributor on a complex project.

Position# 001613
Grant Funded

Post Date: 7/01/2010
Post Until Filled

The City of New York/NYC Department of Health and Mental Hygiene is an Equal Opportunity Employer

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Mitchell Sturman

ATTACHMENT #2

From: Commissioner Farley
Sent: Wednesday, June 23, 2010 5:32 PM
To: Commissioner Farley
Subject: DOHMH EEO Program

Earlier this year, I wrote to you that the Equal Employment Practices Commission (EEOC) had initiated an audit of the DOHMH EEO Program. The purpose of the audit was to evaluate our compliance with the City's EEO policy during the three-year period from January 1, 2006 through December 31, 2008. Employees were asked to complete EEOC designed surveys and I am proud to report that the response rate exceeded expectations. I thank you for providing feedback regarding our EEO program.

The Preliminary results of the audit indicate that we are meeting our obligations with the City's mandate. The EEOC has identified areas of improvement and we are working to implement the recommendations. I want to share with you some of the actions we have implemented:

- I want to reiterate to you my personal commitment to achieving the principles of Equal Employment Opportunity. Further, I am directing all Managers and Supervisors to reiterate their commitment to EEO, at a minimum semi-annually, during meetings.
- You are encouraged to read the details of our EEO policy, practices and procedures by going to: <http://healthweb.health.nycnet/html/eoo/eoindex.htm?header=dept&pageID=1002>
- All recruitment literature is being reviewed and additionally annotated as needed to include the reminder that the DOHMH and the City of New York are equal opportunity employers."
- The DOHMH Disability Rights Coordinator is Mitchell Sturman, Executive Director, Workforce Development. He can be contacted at msturman@health.nyc.gov.
- Career Counseling regarding employee needs, interests and areas of skill enhancement, is available by contacting Nayeem A. Mohammed at nmohamme@health.nyc.gov.
- All individuals involved with job interviewing are encouraged to complete structured job interview training prior to participating in the selection process.

The DOHMH is committed to achieving a workplace free of discrimination.

Sincerely,

Thomas Farley, MD, MPH
Commissioner

**** Please do not reply to this email. ****



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas A. Farley, M.D., M.P.H.
Commissioner

Health

July 12, 2010

Thomas A. Farley, MD, MPH
Commissioner
125 Worth Street, Suite 331
New York, NY 10013

Dear Commissioner Farley,

On June 18, 2010, Abraham May Jr., Executive Director, Equal Employment Practices Commission (EEPC), sent via facsimile, the "Letter of Preliminary Determination", outlining the results of the audit conducted of our EEO Program. One of the recommendations, titled, "EEO Officer Reporting Arrangement", was that an agenda be prepared, and minutes maintained, of our meetings.

Pursuant to the recommendation, the following is a summary of our meeting held on Wednesday, June 30, 2010, at 2:00 pm.

The agenda submitted to you on June 23, 2010, consisted of the following subjects:

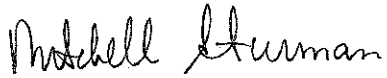
1. A review of the "Letter of Preliminary Determination" of the EEPC and the comments of the auditors at the meeting held with the EEPC on June 22, 2010.
2. A review of complaint activity and timeliness.
3. Update regarding new EEO tracking report.

Meeting Minutes:

- Commissioner Farley acknowledged the audit results and recommendations of the EEPC. It is expected that we will expeditiously respond and implement, as appropriate, the recommendations.
- An email notice to all employees outlining various aspects of the EEPC audit was finalized and issued June 23, 2010 at 5:32 pm.
- The procedure for issuance of Final Agency Decisions has been changed and will result in a significant reduction in processing time.

- The new tracking system is tentatively scheduled for July 1, 2010 and will include an "email flag notification" to EEO personnel when the case is 50 calendar days, old and will be sent every day thereafter until the case is closed.

Sincerely,



Mitchell Sturman

Executive Director

Workforce Development

NYC DOHMH

cc: Patsy Yang, Dr. P.H.
Brenda M. McIntyre



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

40 Rector Street, 14th Floor, New York, New York 10006

Telephone: (212) 788-8646 Fax: (212) 788-8652

Cesar A. Perez, Esq.

Chair

Angela Cabrera

Malini Cadambi Daniel

Elaine S. Reiss, Esq.

Arva A. Rice

Commissioners

Abraham May, Jr.

Executive Director

Charise Hendricks, PHR

Deputy Director

Judith Garcia Quiñonez

Counsel

August 27, 2010

Thomas A. Farley, M.D. MPH

Commissioner

Department of Health and Mental Hygiene

125 Worth Street, Room 331

New York, New York 10013

Re: Final Determination Pursuant to the Audit of the Department of Health and Mental Hygiene (DOHMH) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

Dear Commissioner Farley:

Thank you for your July 30, 2010 response to our June 25, 2010 Letter of Preliminary Determination pursuant to the audit of the Department of Health and Mental Hygiene's Equal Employment Opportunity Policy from January 1, 2006 through December 31, 2008.

As we indicated in our Preliminary Determination Letter, the EEPC's findings and recommendations are based on the collection of relevant documents in response to the *EEPC Document and Information Request Form*, *EEPC Employee Survey*, *EEPC Supervisor/Manager Survey* and electronic interview questionnaires of the agency's Human Resources Director, General Counsel and EEO personnel, including the EEO Counselor(s)/Investigator(s), Career Counselor, Disability Rights Coordinator, and EEO Trainer (if applicable). In addition, the EEPC conducts an on site, in-depth interview with the agency's EEO Officer.

Section 831(d)(2) authorizes this Commission to recommend all necessary and appropriate measures, standards and programs to be utilized by city agencies to ensure a fair and effective affirmative employment program of equal employment opportunity for minority group members and women employed by or seeking employment with city agencies.

After reviewing your response, our Final Determination is as follows:

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:

Recommendation #1

All agency recruitment literature should indicate that the agency and the City of New York is an equal opportunity employer is an equal opportunity employer. (Sect. IV, EEOP)

Recommendation #2

To ensure that all employees are aware of the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, Personnel Officer should re-distribute the identity of the Disability Rights Coordinator. (Sect. VB, EEOP)

Recommendation #6

All confidential written reports should be labeled "Confidential" in large bold print. (DCPIG, Sect. 12b)

Recommendation #7

The agency should ensure that all employees involved in job interviewing receive formal training and/or a guide that outlines illegal or discriminatory questions and includes instructions for conducting a structured interview that standardizes the type and order of interview questions asked to ensure that a fair comparison can be made between interviewees. (Sect. IV, EEOP)

Recommendation #8

To ensure that employees know the identity of the agency's Career Counselor, the Personnel Officer should re-distribute to all employees the identity and the type of guidance which is available from the Career Counselor, at least once each fiscal year. (Sect. VB, EEOP and 12/14/2006 Addendum to *Standards and Procedures to Be Utilized By City Agencies (2005)*)

Recommendation #9

At least twice a year during normal staff meetings, managers and supervisors must 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. These meetings must be documented. (DCAS, Model Agency EEO Commitment Memo and EEPC Position)

Recommendation #10

Because the EEOP requires the EEO Officer to report directly to the agency head (or if approved by DCAS, to a direct report to the agency head), appropriate documentation of meetings and other communications between the EEO Officer and the agency head regarding decisions that impact the administration of the agency's EEO program must be maintained. (Sect. VB, EEOP, and EEPC Position)

Request Clarification

For the following reasons, hereafter identified as EEPC Rationale, we respectfully request clarification of your response to the following recommendations which can be addressed in your response or during the compliance period

Recommendation #3

Since the EEO Policy holds agencies responsible for ensuring compliance with all federal, state, and local laws, as well as City and agency policies, pertaining to persons with disabilities, the agency should develop a plan to demonstrate accessibility compliance for the 34 facilities where compliance/non-compliance is undetermined. This plan should identify the number of locations and workstations that are accessible for employees/applicants with physical disabilities, identify barriers in non-accessible facilities, identify the distribution of job titles among accessible/non-accessible facilities, detail the efforts the DOHMH has taken to remove barriers, and identify the agency (if not DOHMH) responsible for rendering the facility accessible to employees/applicants with disabilities. The agency's plan will be reviewed during the compliance period. (Sect. VB, EEOP)

Your Response

The requested accessibility checklist for each of the facilities, owned or leased, has been completed and is attached. A review of the documents indicates the Agency has met its obligations to ensure that all facilities are in compliance.

EEPC Rationale

The response does not address the recommendation. Please respond in full.

Recommendation #4

In rare circumstances where the investigation cannot commence immediately, or where the confidential report cannot be issued within 90 days, a note should be made in the complaint file explaining the reason for the delay and projecting a time frame for completion of the report. The complainant, respondent and DCAS-Citywide EEO should be notified of the delay in writing. (DCPIG, 4/2/96 *Amendments to the EEO Discrimination complaint & Investigation Procedures*)

Your Response

All EEO staff has been instructed to make every effort to ensure that investigations are completed within 90 calendar days. In the rare instance when that does not occur, instructions have been issued to notify the complainant, in writing, of the delay and the expected date of completion.

EEPC Rationale

The response does not fully address the recommendation. Did the issued instructions include notification of the DCAS-Citywide EEO of the delay of the investigation and the expected date of completion?

Recommendation #5

Because the DCPIG requires the investigator to report words spoken and facts provided as close to verbatim as possible, complaint files must contain thorough word processed notes, for each interview. (Sect. 12b, DCPIG and EEPC Position)

Your Response

The instructions have also included the mandate that all investigative interviews are formalized in writing and included in the case file.

EEPC Rationale

Your response does not indicate if the investigative interviews will contain thorough word-processed notes.

Conclusion

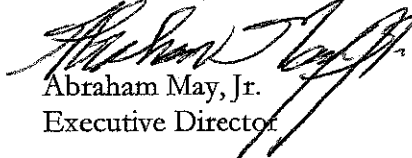
Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance.

If you choose to issue a written response, please do so within thirty days and include a copy of the afore-mentioned "instructions" that were distributed to all EEO staff.

If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. The EEPC Counsel Judith Garcia Quiñonez or her designee will contact your EEO Officer in seven days to ascertain your intentions.

In closing, we want to thank you and your staff for your cooperation during the audit process. We look forward to a mutually satisfactory compliance process.

Sincerely,



Abraham May, Jr.
Executive Director

C: Mitchell Sturman, EEO Officer



NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE
Thomas Farley, MD, MPH
Commissioner

125 Worth Street, Suite 331
New York, NY 10013

+ 1 212 788 5260 tel
+ 1 212 964 0472 fax

October 5, 2010

Abraham May, Jr.
Executive Director
NYC Equal Employment Practices Commission
40 Rector Street, 14th Floor
New York, NY 10006-1728

Re: Final Determination dated August 27, 2010

Dear Mr. May:

The following is the Agency response to the Final Determination recommendations set forth in your notice dated August 27, 2010 (covering the period January 1, 2006 and ending December 31, 2008), and received on September 7, 2010.

In this most recent correspondence, you have agreed with our actions on items number 1, 2, 6, 7, 8, 9, and 10. You have requested clarification of the response to item numbers 3, 4, and 5. Each is addressed below:

3. EEO for persons with Disabilities and Reasonable Accommodations

"The agency should develop a plan to demonstrate accessibility compliance for the 34 facilities where compliance/non-compliance is undetermined."

Corrective Action:

Compliance with this item requires extensive fieldwork that, although currently in progress, has yet to be completed. It is respectfully requested that an extension be granted to finalize this item.

4. EEO Internal Discrimination Complaint Files

"Did the issued instructions include notification of the DCAS-Citywide EEO of the delay of the investigation and the expected date of completion?"

Corrective Action:

During Quarter One, Fiscal Year 2011, there has been one complaint that exceeded the 90-calendar day period. Notice was sent to the employee prior to the 90th day advising of the projected date of completion. However, DCAS Citywide EEO was not copied on the notice. The procedure according to DCAS mandated reporting cases exceeding 90-calendar days on the "Time Extension Log", submitted along with the Quarterly Report (which is due October 29, 2010).

Following receipt of your recommendation, on September 10, 2010, written instructions were issued to all EEO staff that, to the extent possible, investigations are to be completed within 90 calendar days. If it is anticipated that an investigation will not be completed within that timeframe, prior to the expiration of the 90 calendar days, written notification will be sent to the Complainant advising of the delay and the expected date of completion. The office of DCAS-Citywide EEO will be included as "copied" on the correspondence.

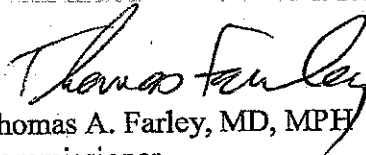
5. EEO Internal Discrimination Complaint Files

"Because the DCPIG requires the investigator to report words spoken and facts provided as close to verbatim as possible, complaint files must contain thorough word processed notes, for each interview."

Corrective Action:

On September 10, 2010, instructions were issued to all EEO staff that effective Fiscal Year 2011, following each investigative interview, their interview notes must be converted to a word-processed document and included in the investigative file.

Sincerely,



Thomas A. Farley, MD, MPH
Commissioner

Attachments



Health

Mitchell Sturman
Executive Director,
Workforce Development
msturman@health.nyc.gov

93 Worth St.
Room 1114
New York, NY 10013-3412

+1 212 219 5250 tel
+1 212 219 5259 fax

September 10, 2010

Harold Bailey, Investigator
Jewel Jones, Investigator
Modesta Diaz, Office Manager

This is in reference to the EEPC Audit covering the period January 1, 2006 and ending December 31, 2008.

Previously, I provided you a copy of the EEPC's Notice of Preliminary Determination dated June 25, 2010. Following that, we discussed the recommendations and our plans toward implementation. On July 30, 2010, I copied you on the Agency response.

On September 7, 2010, I received the EEPC Final Determination in which there remain three items requiring follow-up action. Two of the three recommendations pertain to Investigative Processing. Therefore, effective Fiscal Year 2011, the following procedures are to be followed:

- To the extent possible, investigations are to be completed within 90 calendar days. If it is anticipated that an investigation will not be completed within that timeframe, prior to the expiration of the 90 calendar days, written notification is to be sent to the complainant advising of the delay and the expected date of completion. The office of DCAS-Citywide EEO is to be "copied" on the correspondence.
- Following each investigative interview, interview notes must be converted to a typed, word-processed document and included in the investigative file.

Your usual cooperation is appreciated.


Mitch

B. Other EEO-Related Activities

1. Please specify any other EEO-related activities during the quarter (e.g., postings, meetings, cultural programs, newsletters/articles, distribution of EEO policies, etc.) and describe briefly the activities, including the dates when the activity/ies occurred.

- No Activity Refer to the grid (AII.B Other EEO-Related Activities@)

C. 55a Program

Please provide the following information regarding the 55a program for this quarter.

1. New employee enrollment in the 55a program.

- None New enrollment: _____

2. Describe steps taken to inform employees about the 55a program (e.g., brochure dissemination or postings).

ACTIVITY	DATE
G None	_____
G Posting of 55a information on Bulletin Boards/Electronic Bulletin Boards/E-mail	_____
G Postings in Personnel/Interviewing Areas for applicants/employees to see	_____
G Distribution of 55a pamphlets/ brochures with pay checks	_____
G Distribution of 55a pamphlets/ brochures at training sessions	_____
G Discussion on 55a program at orientation/training sessions	_____
G Inclusion of an article on 55a program in agency newsletter	_____
G Others: (Specify)	_____

III. Complaints and Reasonable Accommodation Requests

Attach the monthly complaint logs for the quarter. If there was no complaint activity for the month, attach a sheet which states that there was A No Activity.@ If applicable, please include the A Complaint Log Supplement@ and the A Discrimination Complaint Investigation Time Extension Log.@

Using the attached forms (AIII. Quarterly Summary of EEO Complaints@) please summarize complaints of discrimination during the quarter.

- No active/ resolved /pending internal or external complaints this quarter
 Refer to the grid (AIII. Quarterly Summary of EEO Complaints@)

IV. Corrective Action/Implementation Progress Report

If the agency was audited by the EEPC, list the recommendations made by the EEPC which the agency implemented during the quarter. Indicate also the agency=s progress toward implementing each recommendation.

- Agency has not been audited Agency has implemented all the EEPC recommendations
 See attached list

TIME EXTENSION LOG

Agency: Department of Health & Mental Hygiene

Fiscal Year: 2010 1st Qtr 2nd Qtr 3rd Qtr 4th Qtr

Complaint Number	Date Filed	Complainant's Name	Respondent's Name	Brief Summary of Allegation(s)	Benchmarks - check those that have been completed	Next Step(s) and Timeline	Date Investigation will be Completed
					<input type="checkbox"/> Interviews with Complainant/Respondent/Witness completed on _____ <input type="checkbox"/> Report with Recommendations (if any) completed on _____ <input type="checkbox"/> Complaint filed externally on _____ <input type="checkbox"/> Internal Complaint file transferred to Legal on _____ <input type="checkbox"/> Complainant/Respondent was notified of delay on _____ Comments: _____		
					<input type="checkbox"/> Interviews with Complainant/Respondent/Witness conducted on _____ <input type="checkbox"/> Final Report prepared on _____ <input type="checkbox"/> Final Report Submitted to Agency Head on _____ <input type="checkbox"/> Complaint filed externally on _____ <input type="checkbox"/> Internal Complaint file transferred to Legal on _____ <input type="checkbox"/> Complainant/Respondent was notified of delay on _____ Comments: _____		



Mitchell Sturman
Executive Director
Workforce Development
msturman@health.nyc.gov

93 Worth St.
Room 1114
New York, NY 10013-3412

+1 212 219 5250 tel
+1 212 219 5259 fax

September 8, 2010

Case #: 100606
Filed: June 14, 2010

Dear

This is in reference to the above listed EEO complaint.

The EEO Process mandates that to the extent possible, all EEO Investigations are to be completed within 90 calendar days. Therefore, a Final Agency Decision (FAD) would have to be issued to you no later than September 11, 2010.

Please be advised that the investigation has been completed and it is anticipated that a FAD will be issued no later than September 21, 2010.

I apologize for any inconvenience this delay may have caused.

Mitchell Sturman

C: File



Health

Mitchell Sturman
Director
Office of EEO
msturman@health.nyc.gov

September 17, 2010

Case #: 100606
Filed: June 14, 2010

93 Worth St.
Room 1114
New York, NY 10013-
3412

+1 212 219 5250 tel
+1 212 219 5259 fax

Dear M

This is the Final Agency Decision in the above referenced matter. In your complaint, you allege that you were subject to a hostile work environment based on your race and/or sexual orientation by _____, Epidemiologist, when she made derogatory and/or racist comments in your presence. Specifically,

- (1) during the week of May 3, 2010, she commented to a co-worker, "your shirt is so nice and clean. How are you able to wear something so clean living in a homeless shelter?"
- (2) on May 19, 2010, she stated to another co-worker (who was eating raisins), "It's nice to see a big black man eating healthy snacks."; and
- (3) on May 20, 2010, she responded to a third co-worker, "I thought you were talking about some lesbian stuff. I'm not a lesbian."

In order to establish a claim of discriminatory hostile work environment, you must show that:

- 1) you are a member of the statutorily protected class;
- 2) you were subjected to harassment in the form of unwelcome verbal or physical conduct involving the protected class;
- 3) The harassment complained of was based on the statutorily protected class; and
- 4) The harassment affected a term or condition of employment and/or had the purpose or effect of unreasonably interfering with the work environment and/or creating an intimidating, hostile, or offensive work environment.

In arriving at a determination, an assessment of whether conduct constitutes discriminatory harassment considers the record as a whole and the totality of the circumstances. All of the circumstances must be considered, including the frequency of the discriminatory conduct; its severity; whether it was physically threatening or humiliating, or a mere offensive utterance; whether it was hostile or patently offensive; whether the alleged harasser was a co-worker or a supervisor.