

CONFLICTS OF INTEREST BOARD

- Letter of Preliminary Determination June 19, 2008
- Agency Response August 8, 2008
- Letter of Final Determination August 22, 2008



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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

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Executive Director

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June 19, 2008

Mark Davies
Executive Director/Counsel
Conflicts of Interest Board
2 Lafayette Street
New York, NY 10007

Re: Resolution# 08/12-312/Preliminary Determination Pursuant to the Audit of the Conflicts of Interest Board (COIB) Equal Employment Opportunity Program from January 1, 2005 through December 31, 2006

Dear Mr. Davis:

Pursuant to Chapter 36 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, women and other protected classes. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

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 Conflicts of Interest Board is funded by the City of New York and is therefore considered a city agency pursuant to Chapter 36, section 831(a) of the New York City Charter.

The audit measures the COIB's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the 2005 Citywide EEO Policy. All recommendations for corrective actions are consistent with both the audit's findings

and the parameters set forth in the Citywide EEO Policy. The relevant sections of these guidelines and documents are cited in parenthesis, where applicable, at the end of each recommendation.

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

Scope and Methodology

Audit methodology included a review of the COIB's Equal Employment Opportunity Policy, a review of the agency's CEEDS data prepared by DCAS, and review of responses to a Commission Document and Information Request Form. The EEPC auditors also conducted an in-depth, on site interview with the EEO officer. A survey of 20 people employed by the COIB during the audit period was distributed. Eight people (40%) responded. The results of these surveys are discussed in the proceeding pages and also attached. (Appendix 1) The survey methodology was established by the EEPC with the assistance of an academic expert from the City University of New York.

Description of the Agency

The Conflicts of Interest Board was established by Section 2602 of the City Charter, replacing the Board of Ethics. The Board has five public members appointed by the Mayor with the advice and consent of the City Council. The Mayor designates the Chair. The Board renders advisory opinions concerning the conflicts of interest provisions of Chapter 68 of the City Charter, promulgates rules, and provides training concerning Chapter 68, enforces Chapter 68, and collects and examines financial disclosure reports pursuant to Section 12-110 of the Administrative Code.

Personnel Activity During the Audit Period

During the audit period, 11 people were hired: 5 Caucasians, 3 Hispanic, 2 Asians, and 1 African American. Eight of the hires were women. There were 3 promotions during the audit period: 1 Caucasian, 1 Hispanic, and 1 Asian. (Appendix 4)

The COIB reported that no employees were involuntarily separated during the period in review. Between January 1, 2005 and December 31, 2006, the total number of COIB employees decreased from 18 to 16. There were percentage increases for Asians (8%), African-Americans (2%), Hispanics (2%), and women (8%). (Appendices 2 and 3)

Discrimination Complaint Activity During the Audit Period

The COIB reported that there were no internal or external discrimination complaints filed during the audit period.

PRELIMINARY DETERMINATION

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

Plan Dissemination – Internally

The COIB is in compliance with the following requirements:

1. The COIB has issued an EEO Policy (which includes a Nondiscrimination Policy, Sexual Harassment Prevention Policy, Reasonable Accommodation Procedure, and Discrimination Complaint Procedure) dated 2006.
2. The COIB's EEO Policy and the Citywide EEO Policy Handbook (*About EEO: What You Need to Know*) were distributed to all current and new employees in 2006 and included in the new hire package. The EEO officer informed EEPD auditors that EEO policy updates are distributed with paychecks. In addition, 87.5% of survey respondents indicated they were given the EEO Policy and 75% said they were given the EEO Policy Handbook.
3. The COIB's EEO policies are posted on the agency's bulletin boards and are periodically checked by the EEO officer. In addition, 100% of survey respondents indicated the policies are posted on the bulletin boards. The policies are also available on the intranet and agency webpage.

The COIB is not in compliance with the following requirements:

The agency's EEO Policy does not contain the current list of "protected classes" under the New York City and New York State Human Rights Laws. Specifically, that document fails to indicate that it is illegal to discriminate on the basis of military status, partnership status, predisposing genetic characteristic, veterans status, and victim of domestic violence, sex offenses or stalking. Corrective action is required.

Recommendation: The agency's EEO Policy should be revised to include all of the protected classes under the New York City and New York State Human Rights Laws.

Recommendation: The revised EEO Policy should be distributed to all current and new employees, and posted on the agency bulletin boards.

Plan Dissemination – Externally

The COIB is in compliance with the following requirement:

During the audit period, the COIB issued job vacancy notices for an ethics training coordinator, agency attorney, and deputy director of enforcement. All of the notices indicate that the COIB is an equal opportunity employer. The COIB placed a job ad in the NY Law Journal for an enforcement attorney. The ad also indicated the COIB is an equal opportunity employer.

EEO and Reasonable Accommodation for Persons with Disabilities

The COIB is in compliance with the following requirements:

1. The COIB participates in the Section 55-A Program. The program brochure is posted on its bulletin boards and distributed to all new employees with their new hire package. During and after the audit period, there were no employees enrolled in the program.
2. According to the EEO officer and the completed *Accessibility for Persons with Disabilities Checklist* (issued by the EEPC), the building is accessible to and usable by persons with disabilities: there is a street level accessible entrance, there are grab bars in the bathrooms, there are wide restroom stalls, low sink and bathroom fixtures, wheelchair accessible elevators, and there is Braille and a bell in the elevators.

The COIB is not in compliance with the following requirements:

1. The COIB's EEO policy is not available in alternate formats for persons with disabilities. Corrective action is required.

Recommendation: The COIB should ensure that EEO policies and procedures are available in alternate formats for persons with disabilities (i.e. large print, audio tape and/or Braille). (Sect. VC, Citywide EEO Policy)

2. According to the EEO officer, the COIB has not appointed a disabilities rights coordinator. The EEO officer said that administration is responsible for handling reasonable accommodations; however, the COIB's EEO policy indicates that the EEO officer also serves as the disability rights coordinator. Corrective action is required.

Recommendation: The COIB should formally appoint a disabilities rights coordinator and employees should be notified in writing of that appointment. (Sect. VB, Citywide EEO Policy)

EEO Complaint and Investigation System

The COIB is in compliance with the following requirement:

1. During and after the audit period, there was a male EEO officer, male EEO counselor, and female EEO counselor authorized to receive and investigate complaints.
2. A hundred percent of survey respondents indicated they know how to file an EEO complaint.

3. The EEO officer and counselors investigate complaints based on the COIB's discrimination complaint procedure outlined in its EEO Policy.
4. The EEO officer is responsible for maintaining a log of all EEO complaints. He informed EEPC auditors that no complaints have been filed during the audit period.

The COIB is not in compliance with the following requirements:

1. Both EEO counselors have not completed the DCAS training program for EEO professionals. Corrective action is required.

Recommendation: Since knowledgeable EEO professionals are essential to the success of the EEO program, and to ensure that EEO professionals have a uniform body of knowledge, both EEO counselors should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school, such as the EEO Studies Program of Cornell University's School of Industrial and Labor Relations. The EEO counselors should obtain the certificate or otherwise complete the program at the institution selected by the COIB. (Sect. VB, Citywide EEO Policy)

2. The EEO officer said he does not meet regularly with the EEO counselors. Corrective action is required.

Recommendation: The EEO officer should meet with the EEO counselors at least at quarterly intervals to ensure that they are carrying out their EEO functions satisfactorily and are kept abreast of internal and external EEO developments. (Citywide EEO Policy, Sect. VC)

3. The EEO officer completed the DCAS' basic training for EEO professionals in 2007--after the audit period.

EEO Training

The COIB is in partial compliance with the following requirement:

The EEO officer informed EEPC auditors that all COIB employees received EEO training during the audit period, which consisted of a three-part video series on sexual harassment called, *Sexual Harassment - How to protect yourself and your organization*; however, the training did not include non-sexual harassment components. All employees were required to watch the three videos and sign an attendance sheet. In addition, 100% of survey respondents indicated that they received such training. Corrective action is required.

Recommendation: In addition to sexual harassment EEO training, the COIB should develop a plan, which includes a timetable for providing non-sexual harassment EEO training. (Sect. IV, Citywide EEO Policy)

Recruitment and Selection

The COIB is not in compliance with the following requirements:

1. The COIB has not provided structured interview training to personnel involved in the recruitment and hiring process. Corrective action is required.

Recommendation: The COIB should ensure that all employees involved in job interviewing receive structured interview training, either from DCAS or another appropriate organization. (Sect. IV, Citywide EEO Policy)

2. The EEO officer informed the EEPC auditors that he is not involved in recruitment strategies and the selection of recruitment media; however, the agency's EEO Policy indicates that the EEO officer is responsible for maintaining a continuing review of all aspects of the COIB's personnel system to detect impediments to the employment of minorities and women and make recommendations for eliminating any such impediments. Corrective action is required.

Recommendation: To ensure fair employment practices, the agency head should direct the human resources department to include the EEO officer in the development of recruitment strategies and the selection of recruitment media. (Sect. IV, EEOP)

EEO Officer Reporting Arrangement

The COIB is in partial compliance with the following requirements:

The EEO officer reports directly to the agency head on EEO matters and meets with him on an ad-hoc basis. However, the EEO officer does not maintain notes or documentation of these meetings. Corrective action is required.

Recommendation: 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, be maintained.

EEO Officer Responsibilities

The COIB is in compliance with the following requirements:

The EEO officer (who is also the associate counsel) told EEPC auditors that he devotes approximately 5% - 10% of his time to EEO matters because there have not been any EEO issues

or discrimination complaints filed since his appointment. He told the EEPC auditors that he has sufficient support staff and resources to discharge his EEO officer duties.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. The agency's EEO Policy should be revised to include all of the protected classes under the New York City and New York State Human Rights Laws.
2. The revised EEO Policy should be distributed to all current and new employees, and posted on the agency bulletin boards.
3. The COIB should ensure that EEO policies and procedures are available in alternate formats for persons with disabilities (i.e. large print, audio tape and/or Braille). (Sect. VC, Citywide EEO Policy)
4. The COIB should formally appoint a disabilities rights coordinator and employees should be notified in writing of that appointment. (Sect. VB, Citywide EEO Policy)
5. Since knowledgeable EEO professionals are essential to the success of the EEO program, and to ensure that EEO professionals have a uniform body of knowledge, both EEO counselors should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school, such as the EEO Studies Program of Cornell University's School of Industrial and Labor Relations. The EEO counselors should obtain the certificate or otherwise complete the program at the institution selected by the COIB. (Sect. VB, Citywide EEO Policy)
6. The EEO officer should meet with the EEO counselors at least at quarterly intervals to ensure that they are carrying out their EEO functions satisfactorily and are kept abreast of internal and external EEO developments. (Citywide EEO Policy, sect VC)
7. In addition to sexual harassment EEO training, the COIB should develop a plan, which includes a timetable for providing non-sexual harassment EEO training. (Sect. IV, Citywide EEO Policy)
8. The COIB should ensure that all employees involved in job interviewing receive structured interview training, either from DCAS or another appropriate organization. (Sect. IV, Citywide EEO Policy)
9. To ensure fair employment practices, the agency head should direct the human resources department to include the EEO officer in the development of recruitment strategies and the selection of recruitment media. (Sect. IV, EEOP)

10. 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 be maintained.

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

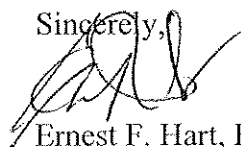
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to the EEPC's audit of the COIB's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the Citywide EEO Policy, we respectfully 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 specify those corrective actions in your response. Because agency heads are responsible for the implementation of their agency's EEO Program, your response must be a formal letter signed by you. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, 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 thank you and your staff for the cooperation extended to the Equal Employment Practices Commission auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,



Ernest F. Hart, Esq.
Chair

**Conflict of Interest Board
EMPLOYEE SURVEY RESULTS**

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (8) No (0)
2. Is your agency's EEO Policy Statement or the Citywide EEO Policy Statement posted on your agency's bulletin boards?
Yes (8) No (0)
3. Were you given the EEO Policy Statement or the Citywide EEO Policy Statement?
Yes (7) No (1) Do not remember (0)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?
Yes (6) No (2)
5. Do you agree with the principles of equal employment opportunity?
Yes (8) No (0)
6. Do you believe your agency practices equal employment opportunity?
Yes (8) No (0)

B. EEO COMPLAINTS

7. Do you know how to file an EEO complaint?
Yes (8) No (0)
8. If you had an EEO complaint, would you bring it to your agency's EEO Office?
Yes (7) No (1) Undecided (0)
9. Would you prefer to file an EEO complaint with an office outside your agency?
Yes (3) No (3) Undecided (2)
10. Did you ever file an EEO complaint with your agency's EEO Office? If No, please skip to question #14.
Yes (0) No (8)
11. What was the basis of the complaint?

Age (0)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (0)
Color (0)	Sexual Harassment (0)
Creed (0)	Sexual Orientation (0)
Disability (0)	Veteran's Status (0)
Gender (incl. gender identity) (0)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (0)
Military Status (0)	
National Origin (0)	

COIB SURVEY RESULTS CONTINUED

12. Were you satisfied with the manner in which your complaint was managed?

Yes (0) No (0)

13. Was your manager or supervisor supportive of your right to file a complaint?

Yes (0) No (0) Not Applicable (0)

C. EEO TRAINING

14. Did you receive EEO training? If No, please skip to question #16.

Yes (7) No (0)

15. Did you find this training helpful?

Very (2) Somewhat (2)
Not really (0) Waste of time (2)

D. JOB PERFORMANCE/ADVANCEMENT

16. Did you see your agency's job postings for vacant positions on agency bulletin boards prior to the application deadline?

Yes (6) No (2) Do not remember (0)

E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

17. Are your agency's facilities accessible for persons with disabilities?

Yes (5) No (0) Don't Know (3)

18. Did you ever ask for an accommodation for a physical or mental disability?

If No, skip to question #28.

Yes (0) No (8)

19. Did the agency accommodate you?

Yes (0) No (0)

OPTIONAL

20. What is your race/ethnicity?

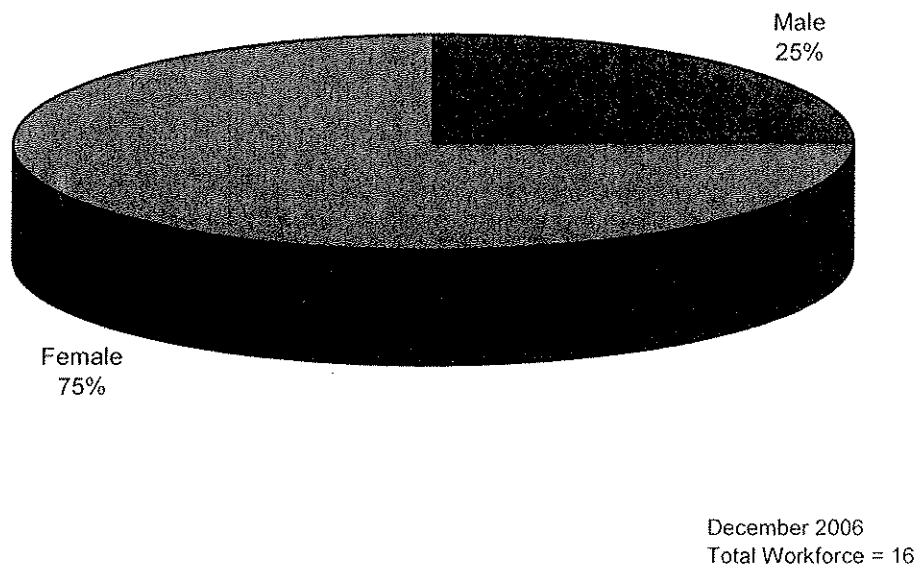
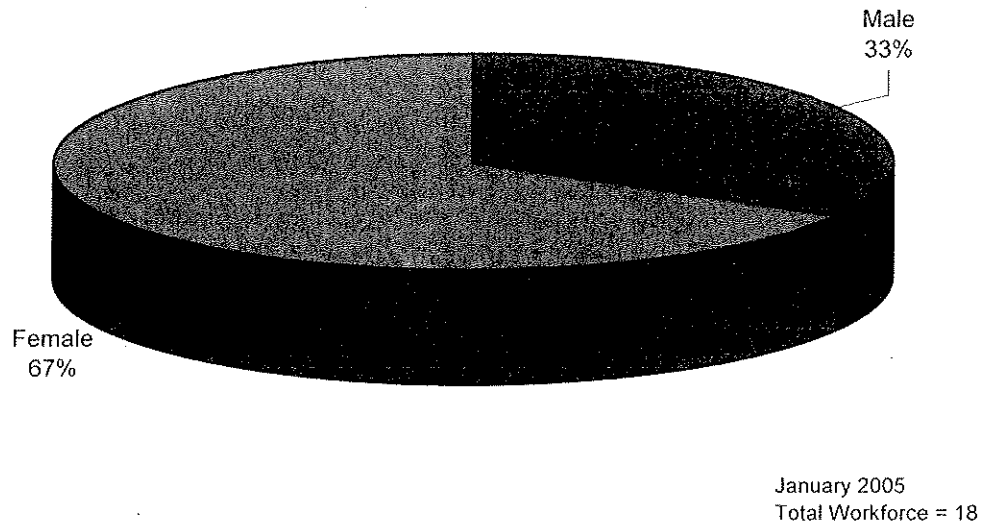
Asian (1) Native American (0)
Black (0) White (2)
Hispanic (1) Other (0)

21. What is your gender?

Male (1) Female (4)

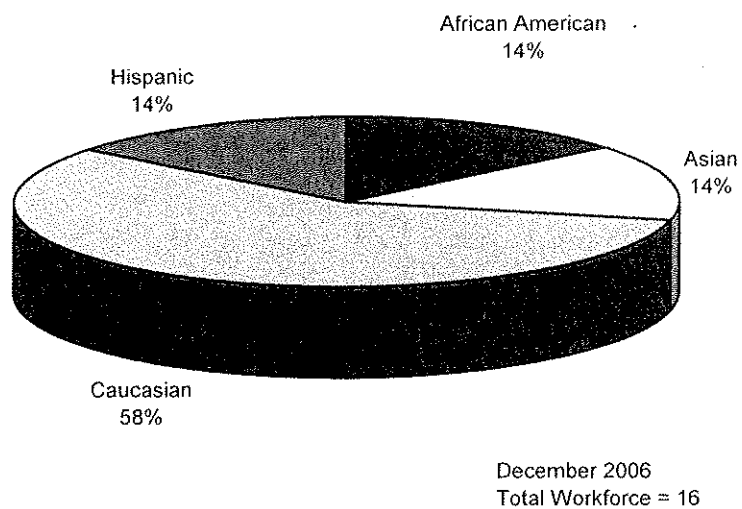
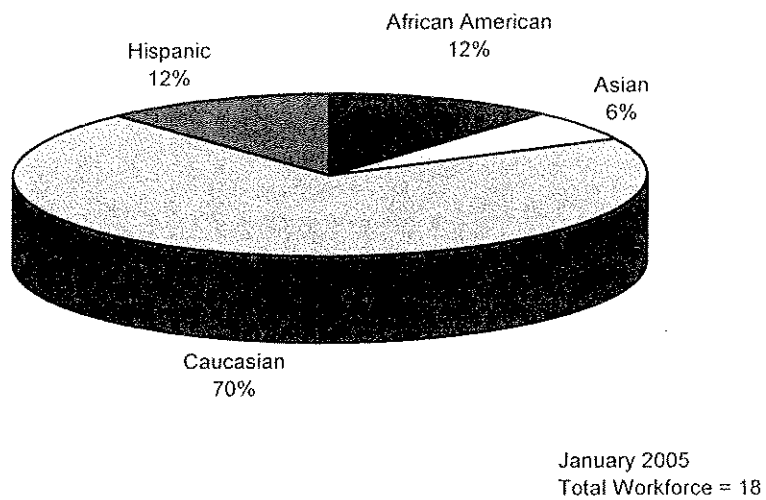
Appendix - 2

Conflict of Interest Board Workforce by Sex



Appendix - 3

Conflict of Interest Board Workforce by Ethnicity



APPENDIX – 4

Conflict of Interest Board Hires and Promotions

The following table indicates personnel activity during the audit period,
January 1, 2005 to December 31, 2006

Conflict of Interest Board

Hires by Sex and Ethnicity

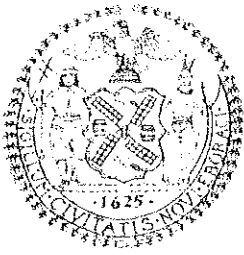
Total Hires: 11

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
3	8	11	5	1	3	2	0	11

Promotions by Sex and Ethnicity

Total Promotions: 3

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
1	2	3	1	0	1	1	0	3



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010

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08/14

August 8, 2008

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

Re: Resolution #08/12-312/Preliminary Determination Pursuant to the Audit of the Conflicts of Interest Board Equal Employment Opportunity Program from January 1, 2003 through December 31, 2006

Dear Mr. May:

On June 23, 2008, the Equal Employment Practices Commission ("EEPC") sent the Conflicts of Interest Board (the "Board") a preliminary determination of EEPC's audit of the Board's Equal Employment Opportunity ("EEO") Program for the period January 1, 2003, to December 31, 2006. The EEPC, in its preliminary determination, found that the Board was not in compliance in ten areas and recommended a corrective action plan.

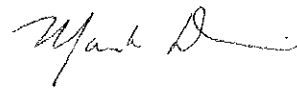
The Board has taken or will take the following measures to implement the EEPC's corrective action plan:

1. Plan Dissemination – Internally: The Board's EEO Policy will be revised to include all of the protected classes under the New York City and New York State Human Rights Laws.
2. Plan Dissemination – Internally: The revised EEO Policy will be distributed to all current and new employees and posted on the Board's EEO bulletin board and on the Board's Intranet.
3. EEO and Reasonable Accommodations for Persons with Disabilities: The Board will make the Board's EEO Policy available in alternate formats for persons with disabilities (i.e., large print and audio tape).
4. EEO and Reasonable Accommodations for Persons with Disabilities: The Board will appoint Sung Mo Kim, the Board's EEO officer, as the disabilities rights coordinator.

5. EEO Complaint and Investigation System: The Board's EEO counselors will complete the Department of Citywide Administrative Services basic training for EEO professionals as soon as the counselors' and the training schedules permit.
6. EEO Complaint and Investigation System: The Board's EEO officer will meet quarterly with EEO counselors to discuss EEO matters.
7. EEO Training: The Board will establish a plan to provide non-sexual harassment EEO training, in addition to its current sexual harassment training.
8. Recruitment and Selection: The Board will consider giving employees involved in job interviewing structured interview training.
9. Recruitment and Selection: The Board will include the EEO officer in the development of recruitment strategies and the selection of recruitment media.
10. EEO Officer Reporting Arrangement: The EEO officer will begin keeping a log with regard to his meetings with the agency head regarding EEO matters.

The Board expresses its appreciation to the EEPC Board and its staff for its courtesy and professionalism during this audit process.

Very truly yours,



Mark Davies
Executive Director

cc: Ute O'Malley
Sung Mo Kim
Adrianne Smith



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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Deputy Director.

August 22, 2008

Mark Davies

Executive Director

Conflicts of Interest Board

2 Lafayette Street

New York, NY 10007

Re: Resolution #08/12-312/Final Determination Pursuant to the Audit of the Conflicts of Interest Board (COIB) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through December 31, 2006.

Dear Executive Director Davies:

Thank you for your August 8, 2008 response to our June 23, 2008 Letter of Preliminary Determination pursuant to the audit of the Conflicts of Interest Board's Equal Employment Opportunity Program from January 1, 2005 through December 31, 2006.

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

The agency's EEO Policy should be revised to include all of the protected classes under the New York City and New York State Human Rights Laws.

Recommendation #2

The revised EEO Policy should be distributed to all current and new employees, and posted on the agency bulletin boards.

Recommendation #3

The COIB should ensure that EEO policies and procedures are available in alternate formats for persons with disabilities (i.e. large print, audio tape and/or Braille). (Sect. VC, Citywide EEO Policy)

Recommendation #4

The COIB should formally appoint a disabilities rights coordinator and employees should be notified in writing of that appointment. (Sect. VB, Citywide EEO Policy)

Recommendation #5

Since knowledgeable EEO professionals are essential to the success of the EEO program, and to ensure that EEO professionals have a uniform body of knowledge, both EEO counselors should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school, such as the EEO Studies Program of Cornell University's School of Industrial and Labor Relations. The EEO counselors should obtain the certificate or otherwise complete the program at the institution selected by the COIB. (Sect. VB, Citywide EEO Policy)

Recommendation #6

The EEO officer should meet with the EEO counselors at least at quarterly intervals to ensure that they are carrying out their EEO functions satisfactorily and are kept abreast of internal and external EEO developments. (Citywide EEO Policy, sect VC)

Recommendation #7

In addition to sexual harassment EEO training, the COIB should develop a plan, which includes a timetable for providing non-sexual harassment EEO training. (Sect. IV, Citywide EEO Policy)

Recommendation #9

To ensure fair employment practices, the agency head should direct the human resources department to include the EEO officer in the development of recruitment strategies and the selection of recruitment media. (Sect. IV, EEOP)

Requires Clarification

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

Recommendation #8

The COIB should ensure that all employees involved in job interviewing receive structured interview training, either from DCAS or another appropriate organization. (Sect. IV, Citywide EEO Policy)

Your Response:

The Board will consider giving employees involved in job interviewing structure interview training.

EEPC Rationale

It is unclear whether employees involved in job interviewing who have not yet received structured interview training will receive this training.

Recommendation #10

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 be maintained.

Your Response:

The EEO officer will begin keeping a log with regard to his meetings with the agency head regarding EEO matters.

EEPC Rationale

It is unclear whether the log will include a narrative description and/or notes regarding EEO operational decisions.

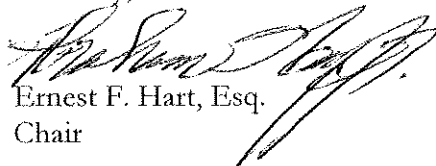
Conclusion

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. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. 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,


Ernest F. Hart, Esq.
Chair

c: Sung Mo Kim, EEO Officer
Judith Garcia Quiñonez, Agency Counsel, EEPC