

NEW YORK CITY FIRE DEPARTMENT

- Letter of Implementation March 12, 2009
- Summary Compliance Report March 12, 2009



EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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March 12, 2009

Nicholas Scoppetta
Fire Commissioner
New York Fire Department
9 MetroTech Center
Brooklyn, NY 11201

Re: Resolution #09/07-057C Implementation of Corrective Actions Pursuant to the Audit of Compliance by the New York City Fire Department (FDNY) Equal Employment Opportunity Program (EEOP) from July 1, 2003 to June 30, 2005

Dear Commissioner Scoppetta:

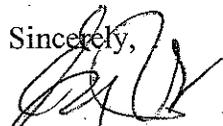
Pursuant to Section 832 of Chapter 36 of the New York City Charter, staff of the Equal Employment Practices Commission (EEPC) was required to monitor audit compliance by the New York City Fire Department (FDNY) for a period not to exceed six months. The compliance period was November 2007 through April 2008. The FDNY submitted its last Monthly Compliance Report on May 16, 2008. The FDNY submitted further documentation in August and September 2008, and March 2009.

The goal of monitoring was to determine if the FDNY implemented all recommended corrective actions pursuant to our audit of compliance by your agency with the City's Equal Employment Opportunity Policy.

After completing its review of the Compliance Reports submitted by your agency, EEPC staff submitted a Summary Compliance Report for Commission review. After reviewing the Report, this Commission has determined that the FDNY has implemented the recommended corrective actions as required by Chapters 35 and 36 of the New York City Charter, to the Commission's satisfaction. The New York City Fire Department is now in compliance with the requirements of the City's Equal Employment Opportunity Policy.

On behalf of this Commission, I want to thank you and Assistant Commissioner Lyndelle Phillips for the cooperation extended to the EEPC Compliance Unit during the compliance-monitoring period.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Hart", written over the word "Sincerely,".

Ernest F. Hart
Chair

C: A/C Lyndelle Phillips, EEO Officer



EQUAL EMPLOYMENT PRACTICES COMMISSION

SUMMARY COMPLIANCE REPORT

Agency: New York City Fire Department

Agency Head: Nicholas Scoppetta, Commissioner

EEO Officer: Lyndelle Phillips, Assistant Commissioner for EEO

Audit Period: July 1, 2003 – June 30, 2005

Agency Census as of December 31, 2005: 15,823

Date of Preliminary Findings Letter:	<i>December 14, 2006</i>
Date of Response Letter:	<i>February 8, 2004</i>
Date of Final Determinations Letter:	<i>February 22, 2007</i>
Date of Response Letter to the Commission's Final Determination Letter:	<i>May 31, 2007</i>

Compliance Initiated:	<i>October 2007</i>
Compliance Completed:	<i>March 2009</i>
Covering Months:	<i>November 2007- April 2008</i>

Date: March 12, 2009

Pursuant to the findings and recommendations of the Equal Employment Practices Commission's (EEPC) Audit of Compliance by the New York City Fire Department (FDNY) with the City's Equal Employment Opportunity Policy (EEOP), the EEPC initiated Audit Compliance with the FDNY on October 22, 2007.

On May 16, 2008, the FDNY submitted its last Monthly Compliance Report, without the agency head's signature. The six-month audit compliance monitoring period ended with three required actions outstanding. The EEPC endeavored to facilitate the FDNY's implementation of these required actions. Specifically:

The EEPC requested the Division of Citywide Equal Employment Opportunity (DCEEO) to give the FDNY EEO staff priority in its next Basic Training for EEO Professionals for the FDNY to satisfy required action #2.

The EEPC informed the FDNY that the Department of Citywide Administrative Services (DCAS) has a computer-based program link in the DCAS website, which the FDNY may use to conduct the adverse impact assessment for required action #5.

The EEPC provided sample agency-wide memoranda for required action #10.

Post Compliance Monitoring

The EEPC informally granted the FDNY a six-month extension of the compliance period from May to October 2008. In August 2008, the FDNY Commissioner issued an agency-wide memorandum informing the staff of the changes being implemented in the FDNY EEO program pursuant to the EEPC audit, and re-emphasizing his commitment to the agency's EEO program (required action #10). The FDNY's EEO professionals completed EEO training in September 2008 (required action #2).

On October 2, 2008, the FDNY requested a three-month extension of the audit compliance monitoring period.

On January 14, 2009, the Commission informed the FDNY Commissioner that in as much as the FDNY still had not implemented one recommended corrective action, which is required by the City's Equal Employment Opportunity Policy: **to assess the manner in which civilian candidates are selected for employment, to determine whether there is any adverse impact upon any particular racial, ethnic, disability or gender group**, the Commission was prepared to issue the FDNY a formal letter of partial compliance. The Commission offered the FDNY an opportunity to complete compliance before the next Commission meeting.

The FDNY submitted its last Compliance Report, on March 10, 2009.

Ten required actions were completed or accepted. The following is a summary of the compliance reports:

1. **The Section 55-A Program brochures issued by the DCAS should be distributed to all new and current employees—uniformed and civilian.**

The FDNY EEO Office initiated a process of distributing the 55-A Program brochures to all agency employees through the agency's administrative and uniformed personnel home pages, and at EEO trainings.

The required action was completed in January 2008.

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

The FDNY EEO Office submitted copies of the certificates of completion for four FDNY EEO staff who attended the DCAS Basic Training for EEO Representatives.

The required action was completed in September 2008.

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

The FDNY EEO Officer submitted to the EEPD as an attachment to the agency response to the EEPD Preliminary Determination a copy of a letter to the parties of a complaint notifying them of the delay in the investigation.

The required action was completed in May 2007.

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

The FDNY EEO Office submitted to the EEPD a copy of the sign-in sheet, course description, reminder notice and staff roster, from the training conducted by the FDNY Division of Human Resources in conjunction with the EEO Office for managers from administrative units who have interviewing responsibility.

The required action was completed in May 2008.

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

The FDNY commenced its monthly reports regarding implementation of this required action by stating that the EEO Office will initiate the process of addressing the training issues with the agency's unit representatives from the Division of Human Resources/Personnel Services. Subsequent MCRs indicated that the EEO Officer was involved in ongoing discussion with EEO Officers from other city agencies about the training and development of an adverse impact initiative.

After several months of vague statements, the FDNY MCRs referred to "the magnitude of this project," "the current citywide budget cuts, as well as the hiring freeze and staff reductions" as the reasons the FDNY had not secured training or develop a program to assess and analyze any adverse impact of various employment barriers.

The Charter mandated six-month compliance period passed without the FDNY making progress in implementing the recommendation that it conduct an assessment of the FDNY's selection criteria for civilian candidates to determine whether there is an adverse impact on any group.

In August 2008, the FDNY Assistant Commissioner for EEO stated as she had before, that the FDNY did not have the staff to conduct an adverse impact assessment; that conducting an adverse impact assessment is not something the FDNY could think about especially with the current hiring freeze; and that she was certain that the FDNY was not going to do it.

In September 2008, the EEPC Counsel contacted the Counsel for the FDNY to express the EEPC's concern about the Assistant Commissioner's statements, given the requirements of the Citywide Equal Employment Opportunity Policy. Six months after the end of compliance, the FDNY Counsel stated that the FDNY will seek clarification of its concerns regarding the nature and the scope of the recommendation and the FDNY's obligation to implement the recommended corrective action.

In February 2009, EEPC Counsel once again explained to the FDNY Assistant Commissioner the EEO Policy requirement regarding adverse impact.

On March 10, 2009, the FDNY submitted to the EEPC the results of utilizing the hr-software.net website recommended by the Department of Citywide Administrative Services for three civilian job titles in which the most hiring occurred during the audit period (2003-2005), Emergency Medical Technician (EMT), Fire Alarm Dispatcher (FAD), and Fire Protection Inspector (FPI).

- The analysis of FDNY hiring of EMTs revealed an adverse impact upon women and younger applicants.
- The analysis of FDNY hiring of FADs revealed an adverse impact upon women and minority applicants.
- The analysis of FDNY hiring of FPIs revealed an adverse impact upon non-minorities and younger applicants.
- The FDNY did not select any of the 8 women who were among the 100 applicants for the 38 FPI positions.

The FDNY stated that it "will continue to analyze these results and its current hiring to determine whether further actions should be taken to address the issue of adverse impact in connection with its civilian hiring."

The required action was accepted in March 2009.

6. The FDNY should inform all employees in writing of the name, location, and telephone number/email address of the Career Counselor.

The FDNY EEO Officer submitted to the EEPC a copy of the Civilian Employee Bulletin and the EMS Command Order in which the FDNY formally announced the name and contact information for the Career Counselors for Civilian Employees and for EMS and Fire Personnel.

The required action was completed in March 2008.

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

The FDNY EEO Officer submitted to the EEPC copies of agenda and meeting notations from meetings between the EEO Officer and the Fire Commissioner.

The response to this required action was accepted in May 2008.

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

The FDNY EEO Officer submitted to the EEPC a copy of the Fire Commissioner's memorandum to the FDNY Deputy Commissioner of Administration, the Assistant Commissioner of Human Resources and the Director of Recruitment and Diversity to direct that their units include the EEO Officer in selecting recruitment media and developing recruitment strategy.

The required action was completed in April 2008.

9. **It is the position of the DCAS ("Model Agency EEO Commitment Memo," available on the DCAS website) and the EEPC that at least twice a year during normal staff meetings, managers and supervisors should hold documented meetings with their staffs to emphasize their (supervisors') commitment to the agency's EEO Policies and reaffirm the right of each employee to file a discrimination complaint with the EEO Office.**

The FDNY EEO Officer submitted to the EEPC a copy of the Fire Commissioner's memorandum to executive and senior staff, managers and supervisors instructing them to conduct meetings to reaffirm their commitment to the FDNY's EEO Policy and the rights of employees to file EEO Complaints. The FDNY has agreed to submit documentation of such meetings.

The required action was completed in April 2008.

10. **The agency head should 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 and re-emphasizing his commitment to the agency's EEO program.**

The attached memorandum from Commissioner Nicholas Scoppetta was distributed on August

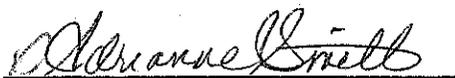
22, 2008.

The required action was completed in August 2008.

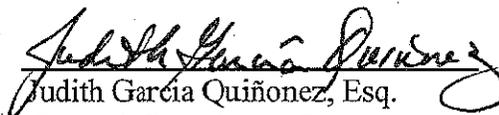
Recommendation

Based on the above information, we recommend that the Equal Employment Practices Commission issue a Letter of Implementation of Corrective Actions to New York City Fire Department Commissioner Nicholas Scoppetta, informing him that the FDNY has satisfactorily implemented all ten recommended corrective actions to the Commission's satisfaction.

Respectfully Submitted,



Adrienne Smith
EEO Auditor/Compliance Officer



Judith García Quiñonez, Esq.
Counsel/Compliance Director



Abraham May, Jr.
Executive Director

Attachment



FIRE DEPARTMENT

9 METROTECH CENTER

BROOKLYN, N.Y. 11201-3857

NICHOLAS SCOPPETTA
Fire Commissioner



MEMORANDUM

TO: All Agency Staff

FROM: Nicholas Scoppetta *NS*

DATE: August 22, 2008

SUBJECT: Commitment to Equal Employment Opportunity (EEO)

The Fire Department is committed to preventing discrimination by: (a) insuring that all employees are aware of their rights and responsibilities under the EEO Policy; (b) monitoring fair employment practices for all of our employees; and (c) encouraging a work environment that appreciates and respects differences among employees.

Each of you has a special responsibility to ensure that employees value and foster fairness, equity and respect in the work place and strive to promote diversity throughout the Fire Department. It is important to me that all personnel work together to maintain an atmosphere of appreciation for the diversity reflected in our staff.

Recently, we succeeded in attracting a qualified group of diverse men and women to fill our uniformed ranks. We expect this unprecedented effort to translate into the hiring of more diverse firefighters than ever before and this means that the FDNY will become more representative of the communities it serves. I am extremely pleased with the results of our years of sustained effort to increase firefighter diversity.

The Department's commitment to preventing discrimination is also manifested by embracing many of the recommendations of the Equal Employment Practices Commission, issued after a recent audit. To ensure Department-wide compliance, I urge you to make sure that our managers and supervisors:

- Collaborate with the EEO Officer and Personnel bureau to integrate equal employment opportunity into all hiring, promotion, compensation, transfer, training, evaluation, separation, and other personnel decisions. It is important that our EEO Officer provides input on personnel decisions, assists managers and senior staff in addressing EEO and diversity issues,

familiarizes and trains our staff about EEO laws, and investigates EEO complaints.

- Conduct documented meetings with staff at least twice a year to reaffirm our commitment to the Fire Department's EEO Policy and to discuss the rights of the employees to file EEO Complaints with our EEO Officer and/or EEO Counselors.
- Commit the resources necessary to increase the diversity of qualified people in the management ranks and in the pipeline to management. When you have selection opportunities, you should involve both EEO and human resource staff members to ensure equal employment opportunity in recruitment, selection, leadership development and succession planning decisions and take responsibility so that these decisions maximize our ability to attract, develop and retain all talented people.
- Familiarize yourself with structured interviewing materials when you are conducting employment interviews, and consult with the Fire Department's Career Counselors in the Personnel Bureau, (Eve Charlack for civilian personnel and Aurora Gabriel Perez for EMS and Fire personnel), for advice and information about career counseling opportunities.

I look forward to working with you as we continue to do everything we can to attract and retain the best and the brightest in all areas within the Fire Department.