



March 14, 2019

Good evening to the New York City Charter Revision Commissioners, esteemed co-panelists. My name is Jonnel Doris and I am the Senior Advisor and Director of the Mayor's Office of Minority and Women-Owned Enterprises (OMWBE). Today I will provide an overview of the Citywide M/WBE Program, the program's goals, as well an overview of the structure of accountability within our office that ensures our commitment to diversity in NYC procurement.

About the M/WBE office and goals

In the Fall of 2016 Mayor Bill de Blasio announced the creation of the Mayor's Office of M/WBEs as a critical next step in the Administration's commitment to increase contracting opportunities for minority and women entrepreneurs. The Mayor pledged ambitious goals of achieving 30% M/WBE utilization by end of FY 2021 and having 9,000 City-certified M/WBEs by end of FY2019. In 2015 the Mayor outlined a separate citywide goal to award \$16 billion to Minority and Women-Owned Businesses over the next 10 years. Last year we increased this goal to \$20 billion because we were \$1.8 million ahead of projections.¹

We are excited to have the leadership of Deputy Mayor, J. Phillip Thompson, whose career-long justice and equity work includes increasing economic development opportunities by calling out and challenging structural and historical barriers in the marketplace and within government.

Under the supervision of the Deputy Mayor, SBS, and MOCS play an integral role in implementing the M/WBE program. SBS certifies M/WBEs and provides essential capacity

¹ <https://www1.nyc.gov/office-of-the-mayor/news/277-18/-1-8-billion-ahead-projections-mayor-de-blasio-new-goal-award-20-billion-to>

building services and technical assistance to ensure they can compete for and execute City contracts. MOCS tracks and reports on utilization data for all City contracts subject to Local Law 1.

The foundation and mission of the City's M/WBE program

The purpose of the City's M/WBE program is to remedy the impact of discrimination in the market where the City makes its procurements. This impact is statistically analyzed in a disparity study. The most recent disparity study demonstrated that minority- and women- owned firms are underutilized in City procurements. Local Law 1 of 2013 established Citywide contracting goals which match the disparity gaps revealed by the 2011 disparity data analysis. The City is in the process of making policy changes in accordance with the key findings and recommendations of the disparity study that was published this past May 2018.

M/WBE certification and utilization:

Since the start of the de Blasio Administration, the number of certified firms has increased by 96%. As of the close of FY19 Q1 the number of certified MWBE firms was 7199. Additionally, at the end FY18 MOCS reported the MWBE utilization at 19%, representing \$1.069 B in awards to MWBEs of City contracts under Local Law 1, as compared to the 8% or \$465 million dollar value of City contracts in FY15 at the start of this Administration. We are also very happy to report that since 2015 over \$10B has been awarded to M/WBEs by mayoral and non- mayoral agencies Citywide (pursuant to the One NYC goal).

Since the enactment of Local Law 1, the City has implemented a number of creative initiatives to help M/WBEs build capacity and obtain capital and has also advocated for state legislative initiatives to give the City more tools for its M/WBE program.

Key achievements and initiatives

Pursuant to LL1 and the goals therein, the percentage of dollars awarded to M/WBEs subject to the City's Program has trended upward from 8% in FY2015 to nearly 20% in FY2018. Just to put that into perspective, at the close of FY18, we are proud to report that, in record time, the City is closing in on its 30% goal, which we know we can achieve by FY 2021.

Still we have more to do; we are lowering and, wherever possible, removing, structural barriers to entering the City's procurement marketplace by providing resources for increased programming at City agencies and creating strategic initiatives to increase M/WBEs' ability to compete successfully.

In accordance with the four core principles of the City's program, accountability, accessibility, capacity and sustainability, we have implemented initiatives to address issues that M/WBEs face in the private marketplace: namely access to capital, which is a common obstacle for many small and mid-sized firms. In order to respond to this need, this Administration launched the Contract Financing Loan Fund (at 3% interest) and Bond Collateral Assistance Fund, both administered by SBS, and the Emerging Developer Fund which is administered by EDC. Together, the initial investment from the Administration across these funds totals \$30M. The Mayor convened the City's banks to discuss a partnership to create accessible capital for more M/WBEs in New York City and in February of 2018, we announced that three of those banks committed an additional \$40M². As a direct result millions of more low interest loans were made possible. Since the Mayor's Office of M/WBEs was created in 2016, we have been working closely with the Mayor's Office of Contract Services and the Department of Small Business Services to analyze processes and actively incorporate M/WBE points of inclusion into agency planning, procurement, and contract administration processes. This has involved training hundreds of agency project staff, expanding agency and Oversight M/WBE programming, enforcing

² <https://www1.nyc.gov/office-of-the-mayor/news/090-18/mayor-de-blasio-40-million-private-investments-advance-economic-opportunity-for#/0>

accountability, and shifting agency culture to promote M/WBE participation and close contracting disparities. We have directly facilitate six Roundtables, and supported even more agency-led Roundtables to better connect M/WBEs and agency project and program representatives. By building up agency-level program leadership, and weaving agency and SBS efforts, we have created a fleet of new programs aimed at growing M/WBE availability and capacity to more directly participate on City contracts. Our efforts have increased M/WBE goal-setting and utilization on City contracting, resulting in an increase in the City's utilization rate to 19% last year from 8.1% percent at the start of the Administration. In the Spring of 2017 we were joined by many M/WBEs, advocates, and stakeholders, including other City agencies, in calling for passage of S6513/A8505 which is now law that authorized 1) increasing the City's discretionary spending limit for goods and services purchased from M/WBEs and 2) giving the City the authority already provided to the State to offer M/WBEs a price or points preference.

We thank our elected partners and many of the advocates here today—for their advocacy and support³. This change provides M/WBEs with access to more and larger contracts to help build capacity and succeed as prime contractors. The discretionary threshold for goods and purchases was raised from \$20,000 to \$150,000. The City implemented on March 5th 2018 and as of March 5th 2019, 756 contracts were awarded to M/WBEs in the amount of approximately \$56M.

Looking ahead

Going forward we will continue to work closely with our other elected partners as well as staunch M/WBE advocates present today on M/WBE outreach, networking, and educational events. We will also continue to meet regularly with interested members and advocates to share updates on the Program's milestones. Thank you for the opportunity to testify today and your

³ <https://www1.nyc.gov/office-of-the-mayor/news/006-18/statements-mayor-de-blasio-deputy-mayor-richard-buery-enactment-state-law-expanding>

continued support and advocacy for our program. We would be happy to answer any questions you may have.



**THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER**

**TESTIMONY OF
COMPTROLLER'S OFFICE CHIEF DIVERSITY OFFICER
WENDY GARCIA**

**BEFORE THE
NEW YORK CITY CHARTER REVISION COMMISSION 2019**

March 14, 2019

Thank you to the Charter Revision Commission for allowing me to testify tonight. My name is Wendy Garcia, and I'm the Chief Diversity Officer for the Office of the Comptroller. And I'm here to call on the Charter Revision Commission to end the status quo of exclusion and put a Chief Diversity Officer on the ballot this November.

As many of you already know, there are multiple programs around the city that already address income inequality for women and people of color. Some may say those programs are enough, but what we've found in our analysis time after time is that those programs don't have the systemic oversight and sustainability they need to be successful.

A Chief Diversity Officer would set the tone at the top for inclusion and will create a five borough economy that represents the diversity of this city. For example, Local Law 1, which sets contracting goals across agencies focuses solely on business owners and lacks accountability. Of the 6700 certified MWBEs, only 20% of those firms received payments from city contracts. We also found in 2015, more than 60 percent of agencies failed to submit subcontract information into the city's PIP system – as required. And without this information, agencies cannot hold primes accountable for their contracting scopes, disproportionately impacting MWBEs. In addition, as you heard my colleagues say earlier this week, we found that 69% of MWBE contracts are submitted late for registration, delaying their payments and forcing many of out of business.

To raise these issues you need a CDO who reports to the top. If you look at the new Office of Citywide Equity and Inclusion, whose focus is employment diversity, the head of that office lacks the reporting structure needed for real influence. And while I believe the current commissioner supports this office's mission, this office needs to be elevated to ensure that the next commissioner takes it just as seriously.

Of the handful of agencies that have CDOs, a few report to the top and they're already seeing results. For example, the Department of Design and Construction increased their M/WBE spending by more than \$100 million since 2014. This is key because studies have found that Chief Diversity Officers who do not report to the top are set up to fail, which in turn fails communities of color.

My role, which is an executive level position, ensures that the City uses its financial power — from contracts to investments — to level the playing field. For example, we took an honest look at the Comptroller's Office procurement and created a strategy to almost triple our spending with M/WBEs from 11% --to 29%. And we pushed global companies to add directors from various backgrounds. In fact, 49 companies we targeted have elected 59 new directors who identify as women or people of color.

As you can see, this issue is bigger than local law. We need to enshrine it in our charter. Thank you.

Good evening members of the NYC Charter Commission. I am Dawn Pinnock and I proudly serve as Executive Deputy Commissioner of People Operations and Risk Management for the Department of Citywide Administrative Services (DCAS). I am pleased to have an opportunity to testify today, to inform you about the work DCAS' Office of Citywide Equity and Inclusion (also known as OCEI) does to foster diversity, equity and inclusion across the City.

OCEI's primary mission is to enable City agencies to comply with the City's Equal Employment Opportunity (EEO) Policy and the City Charter provisions and laws concerning equal employment opportunity.

- Chapter 35 (section 814 and 815) of the City Charter outlines OCEI's responsibilities to assist City agencies to implement their mandated responsibilities with respect to EEO and equity. The City's EEO Policy established pursuant to this authority, recognizes all the protections as provided by City, State and Federal law. OCEI, under the leadership of the Chief Equity and Inclusion Officer, also works directly with mayoral agencies to monitor and ensure citywide compliance with policy, reporting and training requirements.

DCAS has taken a holistic approach to address workplace discrimination and inequity. Toward that end, OCEI is comprised of three programmatic units– Investigations and Compliance, Program and Policy Development and Citywide Recruitment. These units collaborate internally and work directly with agencies to ensure uniformity with respect to data and policy

interpretation, implementation of applicable rules/laws and best practices, and inclusive recruitment.

- Additionally, **Local Law 12**, which was enacted on January 11, 2019, memorializes OCEI's current structure, whereby it provides for the creation of a diversity and inclusion office within DCAS to which agencies are accountable, the appointment of a "Chief" to lead this work, and specific reporting responsibilities to highlight the City's efforts to address workforce inequities.

The City's Chief Equity and Inclusion Officer (Chief) serves as a source of guidance and leadership in assuring that the City of New York emerges as an innovative and global leader in equitable, diverse and inclusive employment practices. The Chief implements the vision of the City of New York as an employer of choice, and provides overall direction of the City's EEO policy. In addition, the Chief is responsible for tracking and monitoring of EEO-related complaints, utilizing workforce data to promote increased diversity across job categories, and identifying opportunities to improve workplace culture through communication and training.

The City's municipal workforce includes over 390,000 employees who provide essential and support services to New Yorkers every day. We are a majority minority with women representing 59% of the City's workforce, and people of color comprising 62%. The City of New York is a civil service municipality, whereby 83% of its positions are filled through civil service testing. Civil service requires individuals to compete and demonstrate their merit and fitness for a particular title/position through an examination process. Once an exam is administered, a list of candidates is established based on an individual's score on an exam, and selections are made in rank order. Additionally, 95% of the municipal workforce are represented by unions with salary structures that are bargained with labor and codified in collective bargaining agreements.

Recognizing the City's hiring process and salary structure, OCEI has expanded its purview to address training on civil service employment, recruitment, pipeline development and reporting through an equity lens.

Beyond the Charter

- ***Engagement with EEO Officers***

Pursuant to the City's EEO Policy, Agency Heads are required to appoint an EEO Officer as a direct report. DCAS' Chief Equity and Inclusion Officer works directly with agency EEO Officers to ensure citywide compliance with respect to EEO and equity. The Chief participates in the vetting process for agency EEO Officers, provides orientation to newly appointed EEO Officers, provides investigative support for complaints that pose a conflict of interest, and hosts mandatory monthly meetings with Officers serving across the City. Additionally, OCEI provides EEO Officers with the tools needed to support agency-level equity work, including but not limited to, diversity and inclusion training, sexual harassment training, tool kits and an information portal.

To provide citywide and agency-specific updates, the Chief Equity and Inclusion Officer regularly reports to City Hall regarding policy, training and reporting compliance.

- **Inclusive Recruitment**

Given the regulatory nature of civil service, OCEI focuses on pipeline development prior to the administration of civil service exams. On a quarterly basis, OCEI provides agency EEO Officers with workforce data to directly inform their recruitment and succession plans. In addition, OCEI serves as the public face of recruitment for the City, and educates the public on civil service, and augments agency-specific recruitment efforts. OCEI focuses on job categories with

underutilization, and historically underserved and underrepresented communities, including communities of color, veterans, people with disabilities, and the LGBTQ+ community, to ensure the City's workforce represents the diversity of the City of New York. Through OCEI's strategic and inclusive work, the City has participated in nearly 1,000 education and job fairs, and has touched over 43,000 job seekers in over the last three years.

During this administration, OCEI has also partnered with the Mayor's Office for People with Disabilities (MOPD) to educate City agencies about the 55-a program – a program created to connect people with disabilities to civil service careers. Through DCAS' partnership with MOPD, the City hosted its first diversity job fair; and its first symposium for HR and EEO professionals, which focused on disability etiquette and the 55-a program. In the coming months, DCAS will offer monthly training on disability etiquette citywide to ensure that agencies are using appropriate language when engaging with people with disabilities.

Conclusion

Thank you for the opportunity to share the approach DCAS has taken to address workforce equity and EEO-related matters across the City. Although our work covers most of the functions outlined in the proposal under consideration, we support the spirit in which the CDO proposal was written – a shared commitment to citywide diversity. We're open to learning more about the proposal as it develops.

Bowen
Public
Affairs
Consulting

Andrea Bowen's testimony for the NYC Charter Commission 2019
Regarding a Chief Diversity Officer
March 14, 2019

Good evening, Chair Benjamin, and members of the NYC Charter Commission. My name is Andrea Bowen, and I'm Principal of Bowen Public Affairs Consulting. I'm a transgender woman and advocate for the lesbian, gay, bisexual, transgender, queer, questioning, and intersex (LGBTQI+) community, and I currently engage in policy articulation, advocacy, and implementation around LGBTQI+ issues.

I previously submitted recommendations to the Charter Commission (co-signed by several organizations, and attached to this testimony), and those form the basis of my recommendations around the proposed Chief Diversity Officer-, or CDO, related Charter recommendations.

Any CDO position should not limit its purview to procurement, but should view its mandate as pushing for inclusion of women and minorities, including TGNCNB people, across a variety of City activities. NYC CDOs should ensure inclusion in City agency hiring, as do CDOs in other municipalities (e.g., Chicago; Nashville; draft Executive Order from Anne Arundel County, MD).¹ While the City of San Francisco does not have a single CDO, it has several offices focused on the needs of minority populations. SF's Office of Transgender Initiatives informs about procurements, and also advises on issues such as housing, and

¹ Kimbrough, C. (2017). Local governments hiring Chief Diversity Officers to lead equity and inclusion work. National Civic Review. DOI: 10.1002/ncr.21329; draft language from Anne Arundel County, MD, available upon request.

effectively anything else impacting TGNCNB people in San Francisco. In a similar vein, San Antonio, Texas's Chief Equity Officer oversaw an effort to "embed...racial equity in [city] operations and services."² NYC's CDO should have as expansive a mandate as possible in overseeing expansion of economic opportunity in subject areas within the City's purview, given the depth of economic inequality, and intersectional aspects of inequality, among various minority groups in NYC (e.g., TGNCNB people of color).

If a particular contract focuses on a particular community (e.g., TGNCNB people), the CDOs should actively recruit organizations led by members of that community, and also help organizations become competitive for City contracts. There are a growing number of TGNCNB-led service organizations in this City, and I know from working with them that they're eager to take on City projects. The CDO should not only recruit from such organizations, but should also provide technical assistance in becoming competitive. As a general policy matter, the Charter should support the awarding of contracts, and building of experience in government contracting, for organizations that are led by the communities the contracts are meant to support.

The CDOs should have the responsibility of ensuring that contracts that impact a particular community (again, e.g., the TGNCNB community) are scored, at least in part, by community members from that particular community.

To ensure effectiveness of the proposed CDOs, they should be required to produce regular public reports on the status of City agency hiring of and procurement awarded to protected classes under NYC law to the extent practicable (e.g., classes listed in the Comptroller's recommendations). This reporting should also indicate the extent to which

² Kimbrough. (2017).

members of a particular protected class were involved in scoring procurements related to that protected classes.

As a final note, I want to emphasize that, given the depth of unemployment in the TGNCNB community, **the Charter should have a hiring requirement that at least 1% of City agency jobs should go to the TGNCNB community—and Charter language should be crafted to allow for not only this kind of mandate, but similar hiring requirements for other populations at high risk for unemployment. The CDO should report on the extent to which such mandates are fulfilled.**

Thank you for your time and consideration, and I look forward to your questions. You can contact me further at andy@bowenpublicaffairs.com, or 917-765-3014.

APPENDIX: Full Charter recommendations, November 2018

Below are several recommendations that the below-signed organizations offer to the NYC Charter Revision Commission, for consideration in Charter reform efforts. Some of these recommendations are very specific, and provide new language for or edit current language in the Charter; some recommendations offer broader principles that we would like to see included in the Charter. Regardless of how the ideas are presented below, they comprise a collection of ideas that the signee organizations and individuals believe will provide greater support to many communities, including the transgender, gender non-conforming, and non-binary (TGNCNB) community (of which many of the signees are a member of or advocate for).

For context: in light of news that the Trump Administration is aiming to remove protections for-- and indeed, the very definition of--TGNCNB people from federal rules, the signees of this document wish to see the highest form of laws that we can influence protect TGNCNB people to the fullest extent. And thus, we want to see the New York City Charter--New York City's constitution--be explicit about protecting TGNCNB people where it is not (thus solidifying protections in such a way that no judge could ever doubt that the document supports TGNCNB people), and expanding rights and resources of TGNCNB people where appropriate.

Because TGNCNB people face astounding rates of homelessness and un- and underemployment, this document also argues for changes to the Charter that would empower the panoply of groups facing homelessness and joblessness.

It should be noted that while many (though not all of) the signees identify as members of the TGNCNB community, or are from organizations that serve the TGNCNB community, we recognize that language is imperfect and evolving to be ever-more inclusive. Thus in our more specific charter language recommendations, we utilize the term "gender minority" and "gender minorities" to stand for any group (including but not limited to TGNCNB people) whose gender identity and/or expression differs from normative gender identity and expression (e.g., people assigned male at birth whose gender identity and expression are masculine), and hope to see that language reflected in Charter language, so that the Charter can continue to encompass an ever-widening range of gender identities. We will similarly use "sexual minority" and "sexual minorities" to refer to lesbian, gay, bisexual, pansexual, omnisexual, asexual and the evolving list of sexual orientations.

Signed:
New York City Anti-Violence Project (AVP)
Andrea Bowen
Ali Forney Center
Community Kinship Life (CK Life)
GMHC
Make the Road New York
New York Transgender Advocacy Group (NYTAG)

Equal Employment Practices Commission (EEPC) and Department of Citywide Administrative Services (DCAS)

We want to see the power of the City in supporting the employment of underemployed communities, which includes gender minorities, and thus recommend changes to the Charter regarding the EEPC and DCAS to empower greater City employment of underemployed communities.

Broadly, we would like to see any mention of the phrase "minority group members and women" in the Charter be changed to say "minority group members, including sexual and gender minorities, and women" because it should be explicit, everywhere possible, that gender and sexual minorities are covered by various protections in employment, contracting, etc.

Below are specific changes we recommend to Chapters 35 and 36 of the Charter. Below, we are providing current language of the Charter with new language in brackets. If an entire section or subsection is noted in brackets, that means we wish to see the entire section or subsection replaced with language in brackets.

Chapter 35, Section 812 -

a. The personnel policies and practices of the city government, in furtherance of this charter, the civil service law and rules and other applicable law, shall: (1) preserve and promote merit and fitness in city employment, (2) ensure that appointments and promotions in city service are made, and that wages are set, without regard to political affiliation, and without unlawful discrimination based on sex, race, color, religion, religious observance, national origin, disability, age, marital status, citizenship status, sexual orientation, [or gender identity or gender expression]; and promote and support the efficient and effective delivery of services to the public.

Section 813

a. There shall be a city civil service commission, consisting of five members, not more than three of whom shall be members of the same political party. Members shall be appointed by the mayor, from a list of nominations provided by the screening committee established pursuant to subdivision b of this section, for overlapping terms of six years. Of the members first appointed, two shall serve for two years and two for four years and one for six years. The members shall be removable in the manner provided for members of a municipal civil service commission in the civil service law. A vacancy in such commission shall be filled in the same manner as regular appointments for the balance of the unexpired term. The mayor shall designate a member as chair and vice chair, respectively, for one-year terms. Within appropriations for such purposes, the members of the commission shall be reimbursed on a per diem basis for attendance at regularly scheduled meetings and hearings of the commission. [Sexual minorities and gender minorities shall be part of the city civil service commission; at least one member

shall be of a sexual minority and at least one shall be of a gender minority, though one person who identifies as both a sexual and gender minority is acceptable.]

[e(1). The commission shall create a task force to address the hiring of sexual and gender minorities, drawn from people of gender and sexual minority status living in New York City, which will create a plan for increasing the hiring of both sexual and gender minorities, and ensure that the civil service examinations and other administrative aspects (e.g., forms) are maximally accessible to people of sexual and gender minorities. This task force shall issue annual reports, following the creation of its initial recommendations. The commission shall provide a four-year budget recommendation, to fund the activities of the commission, including but not limited to stipends for task force members and any necessary staffing, to the Mayor for inclusion in the January Budget Plan following adoption of this Charter provision.]

Chapter 36, Section 830

a. There shall be an equal employment practices commission which shall review, evaluate and monitor the employment procedures, practices and programs of any city agency and the department of citywide administrative services to maintain an effective affirmative employment program of equal employment opportunity for minority group members[, including sexual and gender minorities], and women who are employed by or who seek employment with city agencies.

b. The commission shall consist of five members who, shall be compensated on a per diem basis. The mayor and the council shall each appoint two members. In addition, the mayor and the speaker of the council shall appoint a fifth member to serve as the chair of the commission for a term of four years.

[b(1). These five members should be representative of minority group members, including sexual and gender minorities, and women. There shall be representation of people who are sexual and gender minorities within this commission.]

[b(2). These five members shall serve four year terms, with a limit of two consecutive terms.]

[e. The commission shall appoint an executive director and such deputies, assistants, and other employees as may be needed for the performance of the duties prescribed herein. Appropriations shall be made to account for an executive director and as many employees as the commission sees necessary. The commission shall make a report to the Mayor on an annual basis, by October 1 of each year, of the necessary appropriation level to include in the January Budget Plan.]

Section 831

[7(1). The report to the mayor shall include reporting on the number of sexual and gender minorities hired by each city agency, and provide an explanation of the extent to which city agency human resources practices meet the needs of sexual and gender minorities, including

provision of gender neutral restrooms, coverage of people from sexual and gender minorities in fringe benefit packages including coverage of gender minority-specific health needs in health insurance, and coverage of gender minorities under life insurance policies.]

Housing/HPD and Department of Social Services

There should be some mechanism wherein if the private market isn't doing enough to create affordable housing adequate to housing people below some income threshold (30% AMI and lower), that public dollars shall be spent to create housing sufficient to house that population.

If the private market is not doing enough to create affordable housing adequate to housing people below an income threshold (30% AMI and below), that public dollars shall be spent to create housing sufficient to house that population. If there's no match between affordable units and population to absorb those units, there should be a trigger in the Charter that says they shall be built. (The Housing and Vacancy Survey, sponsored by HPD, could be a means of judging the extent to which new housing shall be built).

Furthermore, the city shall create a program for rental assistance funded solely from City Tax Levy, without requirements that recipients be on Public Assistance or in work (the idea being that federal requirements are the main driver behind Public Assistance and work requirements in rental assistance programs). There is, within the TGNCNB community, a reputation that staff of Public Assistance programs have been unfriendly toward TGNCNB people—this dates to the Back to Work era, and the reputational problems have not been resolved by the new formulation of career programs for PA recipients. Furthermore, recipients of Public Assistance (in general, both within and outside of the TGNCNB community) could potentially face sanctions and unfair case closures that such recipients should have time to resolve, should they elect to continue on PA. Such potentially resolvable case issues should not bar people from receiving CITYFHEPS.

It is also worth noting that that TGNCNB community members face a crisis of unemployment. The aforementioned 2015 NYS LGBT Health and Human Services Network survey showed that 36.8% of TGNCNB NYC respondents reported having been unfairly not hired, and 26.4% reported being unfairly fired.³ 16.2% of TGNCNB NYC respondents were neither employed nor in school, compared to 9.9% of cisgender (non-transgender) LGB respondents. Nationwide, transgender people of color report five times the unemployment rate of the general US population.⁴ In other words, TGNCNB people face specific barriers to employment, and being employed should not be a requirement of receiving rental assistance.

³ Frazer, M. S., Dumont, M. S., & Howe, E. E. (2017). Custom Data Request: Transgender and Gender Nonconforming New Yorkers: An analysis of data from the 2015 LGBT Health and Human Services Needs Assessment. Strength in Numbers Consulting Group, Inc.

⁴ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. Available at <http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>

Anyone receiving a housing subsidy shall also be provided a case manager and broker to support in both the search for housing, and also provision of extra social services to provide broader support for individuals in attaining and retaining housing.

As a general rule, the signers of this document don't believe any NYCHA land should be allowed for market use, and would prefer that go in the Charter.

Commission on Human Rights

There should be an automatic increase in staff numbers of pre-complaint investigators and lawyers investigating CCHR cases commensurate with volume of cases. TGNCNB community members have complained about inability to have their cases move quickly and thoroughly enough, and that is a function of the capacity of CCHR. Increased staff capacity would increase ability to move cases and engage in more in-depth investigations.

Administrative Law Judges should be moved from Office of Administrative Trials and Hearings to work under CCHR and be appointed by Human Rights Commissioners. If ALJs work under CCHR, that would ensure cultural competency of judges during emotionally charged, high stakes cases, would ensure expertise in the subject matter from cultural competency as well as legal standpoint, would give these judges the ability to streamline their expertise and focus on human rights cases, and allow CCHR Commissioners, who have been appointed by the Mayor, to determine who should be appointed to these positions, ensuring that ALJs working on CCHR cases are dedicated to human rights.

Procurement

Contracts for work that focus on a particular community (e.g., gender minorities) should privilege organizations led by people from that community. In other words, procurement policy should support the awarding of contracts--and the building of experience in government contracting--for organizations that are led by the communities the contracts are meant to support. In the case of gender minorities, procurement should privilege awarding by organizations led by gender minorities, and not just organization that serve both sexual and gender minorities.

Immigration

We want to see the removal of the part of Chapter 1, Section 18, subsection c, that denies services to immigrants in the event "such agency is required by law to deny eligibility for such service." We want subsection c to be revised accordingly:

c. Any service provided by a city agency shall be made available to all immigrants who are otherwise eligible for such service to the same extent such service is made available to citizens[, and in the event that a legal requirement may limit immigrants' access to services, the City shall seek means of providing the services to immigrants to the fullest extent possible. In general, undocumented immigrants should have access to all city programs.]

For the subsection above, an example is a program like Summer Youth Employment Program. While undocumented youth are, in a sense, ineligible for the program (youth must be able to fill out an I-9, being in effect employees of the City), other cities have made efforts to establish a stipend system to pay undocumented youth for their work in youth employment programs. (DC does this.)

Furthermore, there should be a statement in the Charter that New York City will protect undocumented people from any state and federal efforts to deport or limit the benefits available to undocumented people, and specifically, the City will refuse to comply with ICE.

2019 New York City Charter Revision Commission
Statement of Richard Briffault at Panel on Corruption
March 14, 2019

Members of the Charter Revision Commission:

Thank you very much for the opportunity to speak with you today. My name is Richard Briffault and I am chair of the New York City Conflicts of Interest Board. I will say a few words about the work and structure of the Board. After that, I would be very happy to answer any questions you may have.

The mission of the Board, which was created by the 1987 Charter Revision Commission, is to protect the integrity of our City government and to help assure our citizens that their government is worthy of their trust. The Board administers the Conflicts of Interest provisions of the City Charter; the Annual Disclosure Law, the Lobbyist Gift Law; the Affiliated Not-for-Profits Law; and the Legal Defense Trusts Law. Much of the Board's work consists of education and training for the City's more than 300,000 public servants. The Board also responds to requests for advice, both formal and informal, from current and former public servants. The Board issues formal orders and opinions, promulgates rules, and prosecutes alleged violators through administrative proceedings.

The Board consists of five public members, appointed by the Mayor subject to the advice and consent of the Council, to staggered six-year terms. A member is eligible for reappointment for one additional term. The only qualifications the Charter sets for appointment are that members be chosen for their "independence, integrity, civic commitment, and high ethical standards." However, the Charter also sharply restricts the outside activities of members, effectively limiting the ability of Board members to participate in City politics. No member of the Board may hold any other public office, seek election to any public office, be a public employee in any jurisdiction or appear as a lobbyist before the City.

The day-to-day operations of the Board are handled by a staff of 26, divided roughly equally among the units responsible for education and training, legal advice, enforcing the conflicts rules, and administering the disclosure law. In the past year, the Board responded to 4,502 informal requests for advice, issued 655 formal opinions, concluded approximately 400 enforcement actions, handled almost 10,000 annual disclosures, conducted 755 classes, and maintained an educational operation that includes a monthly newsletter, a dozen new videos, and a very well-received Twitter feed. This past year, pursuant to Council legislation expressing a preference for more codification of our interpretations of the conflicts of interest provisions of the Charter, we completed five formal rule-makings, and are currently undertaking nine others. We are a very lean operation, with an annual budget of just \$2,580,000. A more detailed summary of the Board's work can be found in our 2018 Annual Report, https://www1.nyc.gov/assets/coib/downloads/pdf2/annual_reports/2018-nyc-coib-annual-report.pdf.

Turning to the specific question of the membership of the Board, the current members believe that the current structure works well. Our small size facilitates deliberation and action. The combination of mayoral appointment and Council confirmation, both for initial appointment and any reappointment, assures that any issues about any nomination can be publicly aired and addressed. Not having multiple appointing officers or a political distribution requirement eliminates the concern that a member would view him- or her-self as representing a particular appointing officer or party – a fragmentation that has affected the work of other ethics agencies, such as New York State's JCOPE. We are not and have not been a political body. The Charter expressly directs that we stay out of City politics, and we do. Two of the current members of the Board were initially appointed by Mayor Bloomberg, but have been reappointed or continued by Mayor de Blasio. The other three were appointed by Mayor de Blasio. We have each been before the Council for confirmation; some more than once. We come from a variety of backgrounds – city service, the private sector, and academia. This is not to say that the current structure is the only one possible, but it does seem to work.

The Charter authorizes the Board to appoint a counsel – we now use the term executive director -- who supervises the Board's day-to-day operations and works for the Board. Accountability to the Board serves to assure that both the executive director and her staff are independent of the political process. The current structure allows the executive director to develop expertise and a deep understanding of the law and how it works in the countless situations in which it has to be applied.

The Commission has indicated that it is considering transferring the regulation of lobbying from the City Clerk to the Campaign Finance Board or the COIB. COIB currently enforces the gifts provisions of the City's Administrative Code that apply to lobbyists. The Board has no position concerning the expansion of its role with respect to lobbyists as long as the necessary additional staff and budget resources are provided.