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June 9, 2020

Frances J. Henn  
President  
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1 Centre Street, Room 2400  
New York, New York 10007

Audit Status:  
Evaluation of Sexual Harassment Prevention and Response Practices for Audit  
Period January 1, 2018 to December 31, 2019.  
Determination: **PRELIMINARY**

Dear President Henn:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you and your agency for the cooperation extended to our staff thus far. This letter contains the EEPC's evaluation and preliminary determinations pursuant to the Office of Administrative Tax Appeals' Sexual Harassment Prevention and Response Practices for the period covering January 1, 2018 to December 31, 2019.

**Purpose**

Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective equal employment opportunity (EEO) for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed.

The Office of Administrative Tax Appeals, hereinafter simply termed "agency" or "entity," falls within the EEPC's purview under Chapter 36, Sections 830(a) and 831(a) of the Charter, to review, evaluate, and monitor the coordination and implementation of affirmative employment programs of equal employment opportunity for 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 purpose of this audit and analysis is to evaluate the subject matter referenced, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

### **Scope**

The EEPC has adopted uniform standards for auditing municipal entities<sup>1</sup> and minimum standards for auditing Community Boards (collectively “Standards”) to review, evaluate, and monitor entities’ employment and EEO-related practices, procedures, approaches, measures, standards, and programs. These standards are founded upon, and consistent with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination. Corrective actions prescribed are consistent with the aforementioned parameters including, but not limited to, the City of New York’s *Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies 2014*, as amended (Citywide EEO Policy); the New York City Human Rights Law (New York City Administrative Code Title 8); New York State Human Rights Law (New York Executive Law, Article 15); the New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

### *Policy and Plan Requirements*

The aforementioned Standards require, at minimum, that mayoral entities distribute the Citywide EEO Policy; non-mayoral entities establish or adopt a comprehensive EEO policy; and Community Boards, which are comprised of members appointed by the respective Borough Presidents, adopt and distribute the corresponding Borough President’s EEO Policy.

Because the EEPC is authorized to review and recommend actions that each entity should consider including in its annual plan of measures and programs to provide equal employment opportunity, or Annual EEO Plan, entities are also required to incorporate the EEPC’s corrective actions in prospective Annual EEO Plans and programs.

### **Methodology**

The EEPC communicates with EEO professionals (including, but not limited to, past or current EEO Officers, Deputy or Co-EEO Officers, EEO Counselors, EEO Trainers, EEO Investigators, Disability Rights Coordinators, Career Counselors, and 55-a Program Coordinators) and other employees identified as having involvement in EEO program administration such as the Principal Human Resources Professional and relevant Counsel.

The EEPC’s audit methodology includes review of the agency’s Annual EEO Plans and Quarterly EEO Reports; analysis of workforce and utilization data; and the collection and analysis of documents, records, and data an entity and its representatives provide in response to the Sexual Harassment Prevention and Response Preliminary Interview Questionnaires (PIQs). All PIQs contain requests to attach supporting documentation for the answer options selected.

EEO Professionals designated for online interviews are assigned a three-week deadline to complete and return the PIQs. The EEPC’s PIQ(s)/requests were sent to the Office of Administrative Tax Appeals on January 3, 2020; the completed PIQ(s) were returned on January 23, 2020. Partial documentation was attached. Additional requests for information were made on March 11, 2020.

The following determination indicates where the Office of Administrative Tax Appeals has or has not complied, in whole or in part, with the established Standards.

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<sup>1</sup> Corresponding audit/analysis standards are numbered throughout the document.

### **Description of the Agency**

The Office of Administrative Tax Appeals is an agency established by the New York City Charter, Section 150, comprising the New York City Tax Appeals Tribunal and the New York City Tax Commission. The New York City Tax Appeals Tribunal is a quasi-judicial agency established by Charter sections 168 through 172, as amended by act of the New York State Legislature on June 28, 1992. It hears and decides cases involving protests from notices issued by the Commissioner of Finance (which give the right to petition for a hearing), involving NYC-administered taxes and charges other than real property tax. Administrative Law Judges conduct hearings and issue determinations which may be appealed by either party to the Commissioners of Tribunal (en banc). Composition: President and two Commissioners appointed by the Mayor for six-year terms; and three Administrative Law Judges.

The Tax Commission serves as the City of New York's administrative review body with regard to real property tax assessments set by the Department of Finance. In accordance with state and local law, the Tax Commission's core responsibilities include reviewing and analyzing, conducting hearings, rendering determinations, ordering remedial action where appropriate, and issuing written notifications of outcome in connection with annual applications for correction of real property tax assessments. Real property tax assessment-related claims subject to administrative review and corrective action by the Tax Commission encompass, as defined by applicable law, inequality; excessiveness, including the denial of a full or partial exemption; unlawfulness; and misclassification. The Tax Commission's administrative determinations are subject to de novo judicial review. Composition: President and 6 part-time Commissioners appointed by the Mayor for six year terms. (Source: The Green Book, 3/2019) At the end of the period in review, the Office of Administrative Tax Appeals had 61 employees (CEEDS report: *Work Force Composition Summary*, second quarter of fiscal year 2020 is attached as **Appendix – 1**).

## **PRELIMINARY DETERMINATIONS AFTER AUDIT AND ANALYSIS**

Following are the corresponding audit standards for each subject area along with the EEPC's findings and required corrective actions, where appropriate:

### **I. Issuance, Distribution and Posting of EEO Policies**

**Determination: The agency is in non-compliance with the standards for this subject area.**

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, it annually issued a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment. **Corrective Action Required.**

**Corrective Action #1:** Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.

2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and

federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, it distributed or posted a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals, which include, or attach as addenda the following: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment. **Corrective Action Required.**

**Corrective Action #2:** Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

## II. **Training for the Agency**

**Determination: The agency is in compliance with the standards for this subject area.**

3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

✓ The *Training* section of the Office of Administrative Tax Appeals’ fiscal year 2019 *Diversity and Equal Employment Opportunity Plan* stated, “[t]he agency plans to train all new employees on Sexual Harassment Prevention within 30 days of start date. Current employees will be trained annually.” The Office of Administrative Tax Appeals’ sexual harassment prevention training log indicated that, in October 2019, 46 employees (approximately 75% of the workforce) completed the Department of Citywide Administrative Services’ (DCAS) *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* computer-based training. The course objective on DCAS’ Human Capital website stated that the training, “...will facilitate awareness of the City’s prohibition on sexual harassment in its workplaces under applicable laws and the City’s Equal Employment Opportunity (EEO) Policy. Participants will learn the definitions of sexual harassment, relevant legislation, prevention techniques and a procedure for filing a complaint. This course will help participants to create an environment that is free from sexual harassment.”

- The Office of Administrative Tax Appeals did not demonstrate that all individuals who work within the agency, including managers and supervisors completed sexual harassment prevention training as outlined in its 2019 *Diversity and Equal Employment Opportunity Plan*. **Corrective Action Required.**

**Corrective Action #3:** Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

### III. Complaint and Investigation Procedures

**Summary of Complaint Activity:** The agency reported 0 internal and 0 external complaints were filed during the period in review.

**Determination:** The agency is in partial-compliance with the standards for this subject area.

4. Include in the complaint file a completed Complaint Intake Form, or a written complaint that captures facts (including pertinent dates) that identify the respondent(s) with reasonable specificity and provide the essence of the circumstances which gave rise to the complaint.

- ✓ The Office of Administrative Tax Appeals reported that it received no complaints during the period in review. In response to the EEPCC's PIQ, the Office of Administrative Tax Appeals submitted a blank representative (OATA) *Tax Commission/Tax Appeals Tribunal A-Intake Form* (A-Intake Form) that captured the *Complaint Number, Date received, Origin* (which captured whether the complaint was received via letter, telephone, office visit, or email), and the *EEO staff [member]* who received the complaint. The A-Intake Form also provided space to capture the complainant and respondent's *Name, Title, Work Unit, Employee ID Number, Work Unit, Location, Work Telephone Number, Shift, Home Address, City, State, Zip, Home Phone Number, Cell Phone Number, and Email Address*. In addition, the A-Intake Form provided space to *Describe the nature of the complaint* (which provided space for the complainant to note whether the nature of the complaint was due to a *Supervisor, Employee, or Employment Practice*, with the option to attach additional pages as necessary); *Action(s) taken by EEO Office*; and *What Resolution are you seeking*. The bottom of the A-Intake Form also provided space for the EEO staff to note the next steps post -intake: *Counsel and Advice; Mediation; Not an EEO matter, referred to appropriate department for handling* (space was provided to capture the Date and Department/Contact the complainant was referred to); and *Inquiry/Investigation Commenced*.

In addition, the Office of Administrative Tax Appeals also submitted a *Complaint of Discrimination Form* (B-Intake Form) that contained space to capture the complainant's: *Name; ERN (Employee Registration Number); Division/Office/Agency; Civil Service Title; Office Title; and Supervisor*. The B-Intake Form captured the following questions: *What is the alleged basis of discrimination* (a checklist of classes protected against employment discrimination was listed); *Please give the name, title and division of the person(s) you believe discriminated against you*; *When did the alleged discrimination occur*; *Where did the alleged incident occur*; *Were there witnesses to the discrimination*; *Did you report this incident to anyone*; and *Have you filed a complaint about the alleged discrimination with any of the following agencies* (a checklist including the New York City Commission on Human Rights; New York State Division of Human Rights; United States Equal Employment Opportunity Commission; United States Department of Labor; and the United States Department of Justice was provided along with space to capture the complaint number and date

filed of the external complaint). In addition, the B-Intake Form provided space to capture a description of the complaint, the corrective actions the complainant would want taken against the respondent, and the complainant's signature and date to certify the information provided.

NOTE: The EEPCC recommends that the Office of Administrative Tax Appeals utilize one Complaint Intake Form to ensure that the same information is collected on all complaint investigations, and to eliminate confusion as to which form to use amongst employees and EEO staff.

5. Provide the option to file a complaint anonymously.

- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, it provided the option to file an anonymous complaint. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

6. Serve the respondent with a notice of the complaint that includes the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice. Maintain in the complaint file documentation regarding the service of notice on the respondent.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required the respondent to be served with a notice of the complaint that included the respondent's right to respond to the allegations and right to be accompanied by a representative of their choice. Additionally, the Office of Administrative Tax Appeals did not distribute a policy or procedure that included a requirement to maintain documentation in the complaint file regarding the service of the notice on the respondent. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required written confirmation be issued and maintained when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required that notes of words spoken and facts provided be taken during each interview and included in each complaint file. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

9. Issue a conclusive report within 90 days of the date the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required that an investigation commence immediately if allegations raised sufficiently warranted an investigation, or that a conclusive report be issued within 90 days of the date the complaint was filed. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

10. In rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, specify in the complaint file the reason for the delay and project a time frame for completion of the report. Notify the complainant and respondent of the delay.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, the reason for the delay and projected time frame for completion of the report be included in the complaint file. Additionally, the Office of Administrative Tax Appeals did not distribute a policy or procedure that required that the complainant and respondent be notified of the delay. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

11. Generate at the end of each complaint investigation, a conclusive confidential report which includes a summary of the allegations and responses, a summary of the procedural history of the

investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required a conclusive confidential report be generated at the end of each complaint investigation that includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

**12.** Maintain complaint files in a secure area and ensure that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

- ✓ The Office of Administrative Tax Appeals reported that its complaint files were maintained and secured physically in a locked file cabinet in the EEO/HR office and were available upon request to the agency head and General Counsel.

**13.** Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the principal investigator's conclusive report; issues a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required the agency head (or an approved direct report other than the General Counsel) to review the principal investigator's conclusive report; issue a written/electronic determination adopting, rejecting, or modifying the recommended action; and sign each determination, via writing or electronically, to indicate it has been reviewed and adopted. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

**14.** Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this



standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required that each complainant and respondent be informed of the conclusion and outcome of their complaint investigation in writing. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

**15.** Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required that each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

**16.** Notify the complainant and respondent in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.

- The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, its policies and procedures were used to determine compliance with this standard. The Office of Administrative Tax Appeals did not distribute a policy or procedure that required the complainant and respondent be notified in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint. **Corrective Action Required.**

NOTE: See §II.2 for associated corrective action.

**17.** Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, and other information necessary to analyze complaint activity to identify trends.

NOTE: The Office of Administrative Tax Appeals reported that it received no complaints during the period in review therefore, analysis of this standard could not be meaningfully measured for the period in review.

18. Ensure that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment; works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informs the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; is available to consult on internal sexual harassment complaint investigations; and is responsible for the investigation of, and response to, external sexual harassment complaints.

- ✓ The General Counsel being a signatory indicated that they participated in the preparation of the Office of Administrative Tax Appeals' *NYC Agency Risk Assessment, 2018* (Risk Assessment), an annual analysis of workplace risk factors that may be associated with sexual harassment (see §IV.19 for additional details). The results of the Risk Assessment (which determined no workplace risk factors), along with the agency head's signature under the *Reviewed and Approved By* section of the *Risk Assessment Certification* page, demonstrated the General Counsel assisted the agency head in identifying and determining appropriate responses for sexual harassment. Additionally, the principal EEO Professional also being a signatory on the Risk Assessment demonstrated that the General Counsel worked with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment.

NOTE: The Office of Administrative Tax Appeals reported it received no complaints during the period in review, therefore, analysis of the General Counsel's responsibility for the investigation of, and response to, external sexual harassment complaints; informing the principal EEO Professional when external complaints or litigation involving sexual harassment was brought against the agency; and being available to consult on internal sexual harassment complaint investigations could not be meaningfully measured for the period in review.

#### **IV. Annual Review of Practices, Policies and Programs**

**Determination: The agency is in partial-compliance with the standards for this subject area.**

19. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

- ✓ Signatures on the *Risk Assessment Certification Page* of the Risk Assessment demonstrated that in October 2018, the principal EEO Professional, EEO Counselor, and General Counsel assessed the following risk factors that may be associated with sexual harassment: *Homogenous Workplace; Cultural and Language Differences in the Workplace; Workplaces with Significant Power Disparities; Isolated Workplaces; and Decentralized Workplaces*. The Office of Administrative Tax Appeals' review concluded that the entity, "...takes pride in its taking of active steps to educate employees about what constitutes sexual harassment, and how such conduct is to be reported and handled, policies which have contributed to what is believed to be a low risk of sexual harassment at the agency."

- The Office of Administrative Tax Appeals did not demonstrate that the principal EEO Professional, HR Professional, and General Counsel reviewed the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies. **Corrective Action Required.**

NOTE: The Office of Administrative Tax Appeals reported it received no complaints during the period in review, therefore, analysis of the principal EEO Professional, HR Professional, and General Counsel's review of the number of sexual harassment complaints could not be meaningfully measured for the period in review.

**Corrective Action #4:** Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

#### **V. Responsibility for Implementation - EEO Professionals**

**Determination: The agency is in partial-compliance with the standards for this subject area.**

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

- ✓ The Office of Administrative Tax Appeals reported that its principal EEO Professional was appointed in 1985. The Office of Administrative Tax Appeals' training logs indicated that the principal EEO Professional completed *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* training in 2019.
- The Office of Administrative Tax Appeals did not provide documentation of current training in EEO and complaint investigation for the principal EEO Professional. **Corrective Action Required.**

**Corrective Action #5:** Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

21. Ensure that the responsibilities of the principal EEO Professional are competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations.

- ✓ The Office of Administrative Tax Appeals' *Agency Quarterly Diversity and EEO Report* for the first quarter of fiscal year 2020 indicated that the principal EEO Professional was supported by two EEO Counselor/Investigators (one of whom also served as the entity's 55-a Coordinator, Disability Services Facilitator, Disability Rights Coordinator, and ADA Coordinator).

22. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

- ✓ During the period in review, the entity consisted of 61 employees located in two offices within the same building. The Office of Administrative Tax Appeals' sexual harassment prevention training log indicated that both EEO Counselor/Investigators completed the training in October 2019.
- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, its EEO professionals were selected from different office locations and, where possible, from a variety of levels within the organizational structure, or that it appointed EEO professionals who were trained in EEO laws and procedures, and their responsibilities under the EEO Policy. **Corrective Action Required.**

**Corrective Action #6:** Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

23. Ensure that the principal EEO Professional works cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment.

- ✓ Signatures on the *Risk Assessment Certification* page of the Risk Assessment demonstrated that the principal EEO Professional worked cooperatively with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment (see §IV.19).

24. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource

professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, its principal EEO Professional (or EEO-related designee) was assigned the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures was distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; and managers, supervisors and human resource professionals received guidance on issues pertaining to sexual harassment. **Corrective Action Required.**

NOTE: The Office of Administrative Tax Appeals reported that it received no complaints during the period in review, therefore, analysis of the principal EEO Professional's (or EEO-related designee's) responsibility to ensure that allegations of sexual harassment were promptly investigated could not be meaningfully measured for the period in review.

**Corrective Action #7:** Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

**25.** Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, the principal EEO Professional reported directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities. **Corrective Action Required.**

**Corrective Action #8:** Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

**26.** Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, it maintained documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impacted the administration and operation of programs, policies or procedures concerning sexual harassment. **Corrective Action Required.**

**Corrective Action #9:** Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

## **VI. Responsibility for Implementation – Supervisors/Managers**

**Determination: The agency is in non-compliance with the standards for this subject area.**

27. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, it documented the expectation and implementation that managers and supervisors were held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. **Corrective Action Required.**

**Corrective Action #10:** Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

28. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

- The Office of Administrative Tax Appeals did not demonstrate that, during the period in review, its managerial performance evaluation form contained a rating for EEO (which covered responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner). **Corrective Action Required.**

**Corrective Action #11:** Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

## **VII. Reporting Standard for Agency Head**

**Determination: The agency is required to comply with the standards for this subject area.**

29. Submit to the EEPC an Annual Plan of measures and programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

- ✓ The Office of Administrative Tax Appeals provided its *Diversity and Equal Employment Opportunity Plan* for fiscal years 2018 and 2019, and its *Agency Quarterly Diversity and EEO Report* for the third and fourth quarter of fiscal year 2018; each quarter of fiscal year 2019; and the first and second quarter of fiscal year 2020. Each of the aforementioned *Agency Quarterly Diversity and EEO Reports* contained a *Local Law 97: Annual Sexual Harassment Reporting* section in which the agency reported that it received no complaints during the quarter.

30. Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

**FINAL ACTION:** Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

**Summary of Corrective Actions:**

The Office of Administrative Tax Appeals has 12 required corrective action(s) at this time. This includes the aforementioned final action.

**Conclusion**

Pursuant to Charter Chapter 36, the Office of Administrative Tax Appeals has the *option* to respond to this Preliminary Determination, but must respond to our Final Determination if corrective action is required. **Any response must be signed by the agency head and submitted to the EEPC's Executive Director.**

*Optional Response to Preliminary Determination:* If submitted, the Office of Administrative Tax Appeals' optional response to the EEPC's Executive Director should indicate, with attached documentation, what steps have been or will be taken to correct outstanding areas of non-compliance, and must be received in our office within 14 days from the date of this letter. No extensions will be granted for the *option* to respond to the Preliminary Determination.

*(Optional Conference)* If requested, at the Optional Conference the EEPC will discuss the immediate steps that should be taken to correct outstanding areas of non-compliance and address questions regarding the Office of Administrative Tax Appeals' implementation of the prescribed corrective action(s).

(No Response Option) If the Office of Administrative Tax Appeals does not respond to this Preliminary Determination within 14 days, it will become the EEPC's Final Determination.

*Mandatory Response to Final Determination:* Following this Preliminary Determination, the EEPC will issue a Final Determination where we may modify or eliminate the corrective action(s) based on verified information submitted as part of the response to the Preliminary Determination; identify remaining corrective action(s) that require further monitoring to ensure implementation; and assign a mandatory compliance-monitoring period of up to 6 months for this purpose. Pursuant to Charter Chapter 36, upon receipt, the Office of Administrative Tax Appeals must submit a response, signed by the agency head, to our Final Determination within 30 days. Your response to the Final Determination will initiate the compliance-monitoring period.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Imani Bowen, EEO Program Analyst

Approved by,



Charise L. Terry  
Executive Director

c: Myrna Hall, principal EEO Professional, Director of Operations, Office of Administrative Tax Appeals  
ilacia Zuell, Manager, EEO Analysis and Audit Unit, EEPC



## **Appendix – 1**

Office of Administrative Tax Appeals

Citywide Equal Employment Database System (CEEDS report: *Work  
Force Composition Summary*)

2<sup>nd</sup> quarter of fiscal year 2020



EEO JOB GROUP	TITLE DESCRIPTION	MALE				FEMALE				TOTAL EMP	
		WHITE	BLACK	HISP	ASIAN PACIS	WHITE	BLACK	HISP	ASIAN PACIS		
13631	COMPUTER ASSOCIATE (SOFTWA	0	0	0	2	0	0	0	0	0	0
13632	COMPUTER SPECIALIST (SOFTW	0	0	0	0	0	0	0	1	0	0
13643	CERTIFIED IT DEVELOPER (AP	0	0	0	1	0	0	0	0	0	0
13694	*CERTIFIED DATABASE ADMINI	0	0	0	1	0	0	0	0	0	0
EEO JOB GROUP TOTAL.....:		0.00	0.00	0.00	80.00	0.00	0.00	0.00	20.00	0.00	0.00

EEO JOB GROUP	TITLE DESCRIPTION	MALE				FEMALE				TOTAL EMP	
		WHITE	BLACK	HISP	ASIAN PACIS	WHITE	BLACK	HISP	ASIAN PACIS		
30087	AGENCY ATTORNEY	1	0	0	1	2	0	1	0	0	0
EEO JOB GROUP TOTAL.....:		20.00	0.00	0.00	20.00	40.00	0.00	20.00	0.00	0.00	0.00

EEO JOB GROUP	TITLE DESCRIPTION	MALE				FEMALE				TOTAL EMP	
		WHITE	BLACK	HISP	ASIAN PACIS	WHITE	BLACK	HISP	ASIAN PACIS		
10124	PRINCIPAL ADMINISTRATIVE A	0	1	0	0	0	2	1	1	0	0
EEO JOB GROUP TOTAL.....:		0.00	20.00	0.00	0.00	0.00	40.00	20.00	20.00	0.00	0.00

EEO JOB GROUP	TITLE DESCRIPTION	MALE				FEMALE				TOTAL EMP	
		WHITE	BLACK	HISP	ASIAN PACIS	WHITE	BLACK	HISP	ASIAN PACIS		
10252	SECRETARY	0	0	0	0	1	0	1	0	0	0
12882	SECRETARY TO THE PRESIDENT	0	0	0	0	0	1	0	0	0	0
EEO JOB GROUP TOTAL.....:		0.01	0.00	0.00	0.00	33.33	33.33	33.33	0.00	0.00	0.00

EEO JOB GROUP	TITLE DESCRIPTION	MALE				FEMALE				TOTAL EMP	
		WHITE	BLACK	HISP	ASIAN PACIS	WHITE	BLACK	HISP	ASIAN PACIS		
10209	COLLEGE AIDE	0	1	2	0	0	2	2	0	0	0
EEO JOB GROUP TOTAL.....:		0.00	20.00	40.00	0.00	0.00	40.00	40.00	0.00	0.00	0.00

EEO JOB GROUP TOTAL.....: 0.00 10.00 20.00 0.00 0.00 20.00 20.00 0.00 20.00 0.00 0.00 10.00 0.00 10.00 0.00 100.00

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 AGENCY TOTAL.....: 13 21.30 8.20 4.92 3 4.92 11.48 7 11.48 0.00 2 3.28 19.67 12 19.67 8 13.11 6 9.84 4 6.56 0 0.00 1 1.64 61 100.00



**THE CITY OF NEW YORK  
OFFICE OF ADMINISTRATIVE TAX APPEALS**

2400 Municipal Building, 1 Centre Street, New York, NY 10007

FRANCES J. HENN  
Director  
FHenn@oata.nyc.gov

June 23, 2020

Charise L. Terry, Executive Director  
New York City Equal Employment Practices Commission  
253 Broadway, Suite 602  
New York, NY 10007

Re: EEPC Preliminary Determination Dated June 9, 2020

Dear Executive Director Terry:

Thank you and your staff for your work examining our practices and procedures regarding Sexual Harassment Prevention and Response during 2018 and 2019, the period prior to my designation as President of the Tax Commission, President of the Tax Appeals Tribunal, and Executive Director of the Office of Administrative Tax Appeals ("OATA"), the umbrella agency for the Tax Commission and the Tax Appeals Tribunal.

I, and my staff, are committed to maintaining a work environment free from sexual harassment, and, as detailed below, are in the process of taking corrective action to bring OATA into full compliance with the relevant requirements.

First, I will be issuing, every year, a policy statement reiterating OATA's commitment to preventing, and, if necessary, investigating sexual harassment.

Second, the staff will be reminded, annually, that the City's EEO policy is on OATA's intranet site. After contact information for current OATA EEO personnel and relevant local, state and federal government agencies is added to the intranet site, the staff will get notice of those additions, and an annual reminder of their presence.

Third, while almost all staff did complete sexual harassment prevention training in 2019, current staff who were at OATA during the audit period who did not will do so in 2020, as well as all new staff who came onboard after the audit period.

Fourth, our discrimination complaint intake forms will be consolidated.

Fifth, the revised complaint intake form will allow complaints to be filed anonymously.

Sixth, our policies and procedures will be revised to require that:

a. the respondent "be served with a notice of the complaint that included the respondent's

right to respond to the allegations and right to be accompanied by a representative of their choice.”

b. we maintain “documentation in the complaint file regarding the service of the notice on the respondent.”

c. “required written confirmation be issued and maintained when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.”

d. “notes of words spoken and facts provided be taken during each interview and included in each complaint file.”

e. “an investigation commence immediately if allegations raised sufficiently warranted an investigation, or that a conclusive report be issued within 90 days of the date the complaint was filed.”

f. “in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, the reason for the delay and projected time frame for completion of the report be included in the complaint file,” and “that required that the complainant and respondent be notified of the delay.”

g. “a conclusive confidential report be generated at the end of each complaint investigation that includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head’s Review.”

h. “the agency head (or an approved direct report other than the General Counsel)” “review the principal investigator’s conclusive report; issue a written/electronic determination adopting, rejecting, or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted.”

i. “each complainant and respondent be informed of the conclusion and outcome of their complaint investigation in writing.”

j. “each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result.”

k. “the complainant and respondent be notified in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.”

Seventh, OATA’s employment practices will be reviewed annually by the EEO Officer, the HR Professional, and the General Counsel or the Agency Head, to identify any barriers to opportunity that may be related to sexual harassment, and appropriate responses to any such barriers will be initiated.

Eighth, I appointed a new EEO Officer, effective April 1, 2020, Leonard Picker, the Tax Commission’s Special Counsel and Director of Compliance & Investigations, who served previously as an EEO counselor for OATA for many years. In addition to the training he has had over the years, documentation of which will be sent separately, he will be taking training provided by DCAS, EEO Essentials Training: Complaint Process from Intake to Final Report, on June 26<sup>th</sup>. Proof of that training will be provided along with the other documentation.

Ninth, Mr. Picker will provide documentation of the training the two other OATA EEO staff members have completed, as well as documentation that all three EEO staff do not all come from the same level within OATA’s organization structure. While OATA has staff on two separate floors at 1 Centre

Street, the staff on one floor consists of hearing officers whose duties currently preclude having the time to be trained for, or function as, an EEO counselor or investigator.

Tenth, I will provide a copy of an email demonstrating that Mr. Picker was assigned the responsibility to supervise other EEO staff, and the responsibility to ensure that: the policies against sexual harassment and complaint procedures was distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; and managers, supervisors and human resource professionals received guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

Eleventh, I will provide an email demonstrating that Mr. Picker reports directly to me.

Twelfth, OATA will retain documentation of directives or decisions between Mr. Picker and myself that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

Thirteenth, OATA will document the expectation and implementation that managers and supervisors were held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures.

Finally, OATA will demonstrate that managerial performance evaluation forms contain a rating for EEO.

OATA is proud to not have had a complaint of sexual harassment, ever, and we are committed to doing everything possible to continue that status.

Thank you, and your staff, again, for your thoughtful efforts to improve our efforts to prevent sexual harassment in the workplace.

Sincerely,

Frances J. Henn



C. Imani Bowen, EEPC

Ilacia Zuell, EEPC



Sasha Neha Ahuja  
Chair

Angela Cabrera  
Malini Cadambi Daniel  
Elaine S. Reiss, Esq.  
Arva R. Rice  
Commissioners

Charise L. Terry  
Executive Director

Jennifer Shaw, Esq.  
Executive Agency Counsel/  
Director of Compliance

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 676.2724 fax

**BY EMAIL**

June 29, 2020

Frances J. Henn  
President  
Office of Administrative Tax Appeals  
1 Centre Street, Room 2400  
New York, NY 10007

**Audit Status:**

Evaluation of Sexual Harassment Prevention and Response Practices for Audit  
Period January 1, 2018 to December 31, 2019.

**Determination: FINAL**

**Resolution #: 2020AP/240-021-(2020)**

Dear President Henn:

On behalf of the members of the Equal Employment Practices Commission (EEPC), thank you for the continued cooperation extended to our staff. This document serves as a follow-up evaluation and Final Determination to the following:

Preliminary Determination Issued on: June 9, 2020

Response Received: June 23, 2020

**Purpose**

Chapter 35, Sections 815(a)(15) and (19) of the New York City Charter (Charter) calls for agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women.

Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5) authorize the EEPC to audit, review, evaluate, and monitor the employment practices, procedures, and programs of city agencies and other municipal entities, hereinafter "entities," and their efforts to ensure fair and effective EEO for women and minority employees and applicants. Charter Sections 831(d)(2) and 832(c) authorize the EEPC to make a determination that any plan, program, procedure, approach, measure, or standard does not provide



equal employment opportunity, require appropriate corrective action, and monitor the implementation of the corrective action prescribed. The attachment contains the EEPC's final determination regarding the audit, review, and evaluation of the Office of Administrative Tax Appeals' Sexual Harassment Prevention and Response Practices.

As the Office of Administrative Tax Appeals falls within the EEPC's purview under Charter Chapter 36, Section 831(a), the EEPC is authorized to review, evaluate, and monitor the coordination and implementation of its affirmative employment programs of EEO and related practices. As indicated in our Preliminary Determination, the EEPC has adopted uniform standards<sup>1</sup> to this end. The purpose of this Final Determination, as authorized by Charter Chapter 36, Section 832(c), is to determine the sufficiency of the Office of Administrative Tax Appeals' actions taken or planned thus far to correct areas of non-compliance identified in the EEPC's Preliminary Determination. Further, Chapter 36, Section 832(c) requires that: (1) the EEPC assign a compliance-monitoring period of up to six (6) months to monitor efforts taken to eliminate areas of non-compliance, if any; and (2) the agency respond in thirty (30) days and submit a report each month during this period on the progress of efforts taken to correct outstanding areas of non-compliance.

### **Next Steps**

**The assigned compliance-monitoring period is: July 1, 2020 to December 31, 2020. Correcting all outstanding areas of non-compliance without delay is highly encouraged and will serve to shorten this period.**

***If corrective actions remain:*** Corrective actions will be listed under the *Monitoring Required* section of the attached Final Determination. The EEPC requires that the agency head submit a signed response to this Final Determination. The signed response should indicate what steps the Office of Administrative Tax Appeals has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Office of Administrative Tax Appeals will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Office of Administrative Tax Appeals is required to submit documentation that supports the implementation of each corrective action via TeamCentral, the EEPC's Automated Compliance-Monitoring System. Instruction on how to access and navigate TeamCentral is attached.

***Final Memorandum:*** Upon the Office of Administrative Tax Appeals' implementation of the final corrective action, if any, the EEPC requires that the Office of Administrative Tax Appeals submit a final memorandum, signed by the agency head, that recognizes the EEPC's audit and reiterates commitment to equal employment practices. **Upon receipt of this final memorandum, the EEPC will issue a *Determination of Compliance*.**

***If no corrective actions remain:*** In lieu of a response to this Final Determination, the Office of Administrative Tax Appeals must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Office of Administrative Tax Appeals will be exempt from the abovementioned compliance-monitoring period.

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<sup>1</sup> The EEPC's uniform standards for auditing municipal entities and minimum standards for auditing community boards (collectively "Standards") are founded upon, and consistent with, federal, state, and local laws and regulations, and policies and procedures, including, but not limited to, the City of New York's *Equal Employment Opportunity Policy, Standards and Procedures to be Utilized by City Agencies 2014*; New York City Human Rights Law (NYC Administrative Code 8); New York State Human Rights Law (New York Executive Law, Article 15); New York State Civil Service Law §55-a; and the equal employment opportunity requirements of the New York City Charter.

**Conclusion**

This is the EEPc's Final Determination. Questions regarding next steps may be addressed to Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance at [jshaw@eepc.nyc.gov](mailto:jshaw@eepc.nyc.gov) or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry  
Executive Director

c: Leonard Picker, Special Counsel and Director of Compliance and Investigations, OATA  
Myrna Hall, Director of Operations, OATA

Enclosed: TeamCentral Agency Manual

**FINAL DETERMINATION**

A response indicating progress of Office of Administrative Tax Appeals' efforts to correct outstanding areas of non-compliance, with supporting documentation, is due within 30 days.

The Equal Employment Practices Commission's findings and corrective actions required to remedy areas of non-compliance are based on the audit methodology, which included collection and analysis of the documents, records, and data provided; the EEPC's *Preliminary Interview Questionnaires* (PIQs) for EEO professionals and others involved in EEO program administration; and, if applicable, the *EEPC Employee Survey*, the *EEPC Supervisor/Manager Survey*, the *Annual EEO Plans* and *Quarterly EEO Reports* of the audited entity; and workforce data from the *Citywide Equal Employment Database System*. Additional research and follow-up discussions or interviews were conducted as appropriate.

After reviewing the optional response<sup>2</sup> (if applicable) to the EEPC's Preliminary Determination, our Final Determination is as follows:

**Monitoring Required**

The agency's implementation of the following required corrective actions will be monitored during the assigned compliance-monitoring period.

**Corrective Action #1:**

Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually

**Agency Response:**

*"...[Agency Head] will be issuing every year, a policy statement reiterating OATA's commitment to preventing, and if necessary, investigating sexual harassment."*

**EEPC Response:**

The EEPC recognizes OATA's commitment to implement Corrective Action #1. The OATA's policy statement and proof of distribution will be reviewed during the compliance-monitoring period.

**Corrective Action #2:**

Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency's EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.

**Agency Response:**

*"...the staff will be reminded, annually, that the City's EEO policy is on OATA's intranet site. After contact information for current OATA EEO personnel and relevant local, state and federal government agencies is added to the intranet site, the staff will get notice of those additions and an annual reminder of their presence...our policies and procedures will be revised to require that: the respondent 'be served with a notice*

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<sup>2</sup> Excerpts are italicized.

*of the complaint that included the respondent's right to respond to the allegations and right to be accompanied by a representative of their choice'; [OATA] maintain 'documentation in the complaint file regarding the service of the notice on the respondent'; 'required written confirmation be issued and maintained when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office'; 'notes of words spoken and facts provided be taken during each interview and included in each complaint file'; 'an investigation commence immediately if allegations raised sufficiently warranted an investigation, or that a conclusive report be issued within 90 days of the day the complaint was filed'; 'in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, the reason for the delay and projected time frame for completion of the report be included in the complaint file' and 'that required that the complainant and respondent be notified of the delay'; 'a conclusive confidential report be generated at the end of each complaint investigation that includes a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review'; 'the agency head (or an approved direct report other than the General Counsel) review the principal investigator's conclusive report; issue a written/electronic determination adopting, rejecting or modifying the recommended action; and signs each determination, via writing or electronically, to indicate it has been reviewed and adopted'; 'each complaint and respondent be informed of the conclusion and outcome of their complaint investigation in writing'; 'each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result'; 'the complainant and respondent be notified in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint.'"*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #2. Implementation of this Corrective Action will be monitored during the compliance-monitoring period.

**Corrective Action #3:**

Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

Agency Response:

*"...while almost all staff did complete sexual harassment prevention training in 2019, current staff who were at OATA during the audit period who did not will do so in 2020, as well as all new staff who came onboard after the audit period."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #3. Implementation of this Corrective Action will be monitored during the compliance-monitoring period.

**Corrective Action #4:**

Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency's employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

Agency Response:

*"...OATA's employment practices will be reviewed annually by the [principal EEO Professional], the HR Professional, and the General Counsel or the Agency Head, to identify any barriers to opportunity that may be related to sexual harassment, and appropriate responses to any such barriers will be initiated."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #4. Implementation of this Corrective Action will be monitored during the compliance-monitoring period.

**Corrective Action #5:**

Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

Agency Response:

*"...[Agency Head] appointed a new [principal EEO Professional], effective April 1, 2020, [new principal EEO Professional's name], the Tax Commission's Special Counsel and Director of Compliance and Investigations, who served previously as an EEO Counselor for OATA for many years. In addition to the training [principal EEO Professional] has had over the years, documentation of which will be sent separately, [principal EEO Professional] will be taking training provided by DCAS, EEO Essentials Training: Complaint Process from Intake to Final Report, on June 26<sup>th</sup>. Proof of that training will be provided along with the other documentation."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #5. Documentation of the newly appointed principal EEO Professional's training will be reviewed during the compliance-monitoring period.

**Corrective Action #6:**

Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

Agency Response:

*"...[principal EEO Professional] will provide documentation of the training the two other OATA EEO staff members have completed, as well as documentation that all three EEO staff do not come from the same level within OATA's organization structure. While OATA has staff on two separate floors at 1 Centre Street, the staff on one floor consists of hearing officers whose duties currently preclude having the time to be trained for, or function as, an EEO counselor or investigator."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #6. Documentation of the two EEO Professionals' training will be reviewed during the compliance-monitoring period.

**Corrective Action #7:**

Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording

and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.

Agency Response:

*"...[Agency Head] will provide a copy of an email demonstrating that [principal EEO Professional] was assigned the responsibility to supervise other EEO staff, and the responsibility to ensure that: the policies against sexual harassment and complaint procedures was distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; and managers, supervisors and human resource professionals received guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #7. Documentation that describes the principal EEO Professional's responsibilities will be reviewed during the compliance-monitoring period.

**Corrective Action #8:**

Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

Agency Response:

*"...[Agency Head] will provide an email demonstrating that [principal EEO Professional] reports directly to [Agency Head]."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #8. Documentation that demonstrates the principal EEO Professional's reporting relationship to the OATA agency head will be reviewed during the compliance-monitoring period.

**Corrective Action #9:**

Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

Agency Response:

*"...OATA will retain documentation of directives or decisions between [principal EEO Professional] and [Agency Head] that impact the administration and operation of programs, policies or procedures concerning sexual harassment."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #9. Documentation of directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional will be reviewed during the compliance-monitoring period.

**Corrective Action #10:**

Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.

Agency Response:

*"...OATA will document the expectation and implementation that managers and supervisors were held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #10. Implementation of this Corrective Action will be reviewed during the compliance-monitoring period.

**Corrective Action #11:**

Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Agency Response:

*"...OATA will demonstrate that managerial performance evaluation forms contain a rating for EEO."*

EEPC Response:

The EEPC recognizes the OATA's commitment to implement Corrective Action #11. OATA's managerial performance evaluation form that contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner) will be reviewed during the compliance-monitoring period.

**Final Action:**

Upon the EEPC's determination that the entity does not require further review or monitoring: Distribute a memorandum signed by the agency head that re-emphasizes the commitment of agency administrators to the EEO program, including the prevention of sexual harassment, and informs employees of any changes to the agency's employment practices as a result of the EEPC's audit/monitoring. This final action is required to conclude the audit and monitoring process.

The EEPC thanks you and your staff for your continued cooperation.



RESOLUTION NO.  
2020AP/240-021-(2020)  
Office of Administrative Tax Appeals  
President Frances J. Henn  
Sexual Harassment Prevention and Response Practices  
DETERMINATION: FINAL

SYNOPSIS

<b>Corrective Action(s):</b>	<b>Total: 11</b>		
<b>Period Audit Covered:</b>	January 1, 2018 to December 31, 2019		
<b>Preliminary Determination Issued:</b>	June 9, 2020	Response Received	June 23, 2020
<b>Final Determination Issued:</b>	June 29, 2020	Response Due	July 29, 2020
<b>Compliance-Monitoring:</b>	Required	July 1, 2020 to December 31, 2020	

**Whereas**, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter “entities”) and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

**Whereas**, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities’ practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC’s determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, the EEPC conducted an audit, review, and evaluation of the Office of Administrative Tax Appeals’ Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of Administrative Tax Appeals’ Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated June 9, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.



2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
4. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency’s employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
5. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency’s EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
6. Where the agency’s organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.
7. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.
8. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
9. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

10. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
11. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

**Whereas**, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on June 26, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from July 1, 2020 to December 31, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), on June 29, 2020, the entity was required to issue a response to the EEPC's Final Determination; Now Therefore,

**Be It Resolved**, that pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the EEPC approves the issuance of this Final Determination to President Frances J. Henn to assign compliance-monitoring.

Approved unanimously on July 2, 2020.

Absent

\_\_\_\_\_  
**Angela Cabrera**  
**Commissioner**

/s/Malini Cadambi Daniel

\_\_\_\_\_  
**Malini Cadambi Daniel**  
**Commissioner**

/s/Arva R. Rice

\_\_\_\_\_  
**Arva R. Rice**  
**Commissioner**

/s/Elaine S. Reiss

\_\_\_\_\_  
**Elaine S. Reiss, Esq.**  
**Commissioner**

/s/Sasha Neha Ahuja

\_\_\_\_\_  
**Sasha Neha Ahuja**  
**Chair**

On behalf all Commissioners in attendance,



\_\_\_\_\_  
**Charise L Terry**  
**Executive Director**



**THE CITY OF NEW YORK  
OFFICE OF ADMINISTRATIVE TAX APPEALS**

2400 Municipal Building, 1 Centre Street, New York, NY 10007

FRANCES HENN  
PRESIDENT  
[FHenn@oata.nyc.gov](mailto:FHenn@oata.nyc.gov)

July 29, 2020

Charise L. Terry  
Executive Director  
New York City Equal Employment Practices Commission  
253 Broadway, Suite 602  
New York, NY 10007

**EEPC Final Determination Dated June 29, 2020**

Dear Executive Director Terry:

In response to your Final Determination, I report that the following Corrective Actions have been taken since you issued it; emails documenting them were forwarded to Ms. Bowen, as requested.

- 1-The issuance of a policy statement reiterating OATA's commitment to preventing sexual harassment. (Such a statement will be issued annually going forward.)
- 2-That statement reminds OATA staff that an electronic copy of the City's EEO Policy is on the agency's Intranet site, which includes contact information for federal, state and local agencies that enforce laws against discrimination and sexual harassment. The statement also includes email addresses and phone numbers for OATA's EEO professionals.
- 3-Memorialization of my appointment of Mr. Picker as OATA's EEO Officer, effective April 1, 2020, noting his responsibilities, and that he reports directly to me.
- 4-Documentation of relevant training completed by all three of OATA's EEO professionals.

I am aware that these do not represent all of the Corrective Actions you have called for. My staff and I are committed to completing the remaining ones as soon as possible and submitting documentation of them to your office.

Thank you.

Sincerely,

A handwritten signature in purple ink, appearing to read "Frances J. Henn".

Frances J. Henn  
President, (OATA)  
*NYC Tax Commission & Tax Appeals Tribunal*

# Memorandum

**TO:** All Employees  
**FROM:** Equal Employment Practices Commission  
**DATE:** 1/27/2021  
**RE:** Audit: Review, Evaluation, and Monitoring of Sexual Harassment Prevention and Response Practices  
Office of Administrative Tax Appeals

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The New York City Charter requires the Equal Employment Practices Commission (EEOC) to conduct an audit once every four years to ensure each City agency or municipal entity (collectively “agency”) complies with federal, state, and local laws and regulations, and policies and procedures that increase equal opportunity for employees and applicants.

The EEOC recently concluded an audit and evaluation of the Office of Administrative Tax Appeals’ practices and procedures for compliance with city, state, and federal equal employment opportunity laws and regulations, and identified enhancement by means of the following:

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.
2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
4. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency’s employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.

5. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
6. Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.
7. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.
8. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
9. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.
10. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
11. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

Through successful completion of the EEPC's audit, evaluation, and monitoring processes and the aforementioned enhancements President Henn reaffirms the commitment to ensuring that the Office of Administrative Tax Appeals' employment practices encourage and maintain a workplace free from unlawful discrimination and sexual harassment, and that all employees are aware of their rights and obligations under the agency's equal employment opportunity policies.



**Sasha Neha Ahuja**  
Chair

**Angela Cabrera**  
**Elaine S. Reiss, Esq.**  
**Arva R. Rice**  
Commissioners

**Charise L. Terry**  
Executive Director

**Jennifer Shaw, Esq.**  
Executive Agency Counsel/  
Director of Compliance

**253 Broadway**  
**Suite 602**  
**New York, NY 10007**

212. 615. 8939 tel.  
212. 676. 2724 fax

**BY EMAIL**

January 28, 2021

Frances J. Henn  
President  
Office of Administrative Tax Appeals  
1 Centre Street, Room 2400  
New York, New York 10007

Re: Resolution #2020AP/246-021-(2021)C3  
DETERMINATION: Compliance

Dear President Henn:

On behalf of the members of the Equal Employment Practices Commission (EEOC), I write to inform you that pursuant to New York City Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity (EEO) for minority group members and women, the EEOC's Board of Commissioners has approved the attached Determination.

Thank you and principal EEO Professional Leonard Picker for the cooperation extended to the EEOC during the course of our review, evaluation, and monitoring of your agency's employment and EEO-related practices.

Sincerely,

*Sasha Ahuja*  
Sasha Neha Ahuja  
Chair

c: Leonard Picker, principal EEO Professional, Special Counsel and Director of Compliance and Investigations, Office of Administrative Tax Appeals



Monitoring of Sexual Harassment Prevention and Response Practices  
RESOLUTION NO.

2020AP/246-021-(2021)C3

Office of Administrative Tax Appeals

President Frances J. Henn

DETERMINATION: COMPLIANCE

SYNOPSIS

<b>Corrective Action(s)</b>	Total: 11		
<b>Period Audit Covered</b>	January 1, 2018 to December 31, 2019		
<b>Preliminary Determination Issued</b>	June 9, 2020	Response Received	June 23, 2020
<b>Final Determination Issued</b>	June 29, 2020	Response Received	July 29, 2020
<b>Compliance-Monitoring</b>	Required	July 1, 2020 to January 31, 2021 with extension	

**Whereas**, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (EEPC) is authorized to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities (hereinafter “entities”) and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment, and to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and

**Whereas**, pursuant to Charter Chapter 36, Sections 830(a) and 831(d)(2) and (5), the EEPC has adopted uniform standards for auditing agencies and municipal entities, and minimum standards for auditing community boards, to review, evaluate, and monitor entities’ practices, procedures, approaches, measures, standards, and programs for compliance with federal, state, and local laws and regulations, and policies and procedures to increase equal opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the EEPC may make a determination pursuant to Charter Section 831(d) whether any plan, program, procedure, approach, measure, or standard adopted or utilized by any municipal entity does not provide equal employment opportunity, and the EEPC’s determinations of compliance or non-compliance and prescribed corrective action are required by, or consistent with federal, state, and local laws and regulations, and policies and procedures to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination; and

**Whereas**, the EEPC conducted an audit, review, and evaluation of the Office of Administrative Tax Appeals’ Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of Administrative Tax Appeals’ Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated June 9, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:

1. Issue a Policy Statement or memorandum reiterating commitment to the prevention of sexual harassment annually.



2. Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards and Procedures to Be Utilized by City Agencies – or an agency Policy that conforms to city, state and federal laws against sexual harassment– for use by managers, supervisors, and legal, human resources and EEO professionals. Include, or attach as addenda: uniform and responsive procedures for investigating discrimination/sexual harassment complaints, and current contact information for the agency’s EEO professionals as well as federal, state and local agencies that enforce laws against discrimination/sexual harassment.
3. Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.
4. Ensure that the principal EEO Professional, HR Professional, and General Counsel, review the number of sexual harassment complaints, and the agency’s employment practices, policies and programs on an annual basis to identify whether there are barriers to employment opportunities that may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies.
5. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency’s EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.
6. Where the agency’s organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.
7. Assign the principal EEO Professional (or EEO-related designee) the responsibility to supervise the activities of EEO professionals, and ensure that: the policies against sexual harassment and complaint procedures are distributed/posted at all agency locations; employees/managers receive sexual harassment prevention training; EEO-related policies are made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request; managers, supervisors and human resource professionals receive guidance on issues pertaining to sexual harassment; and allegations of sexual harassment are promptly investigated.
8. Ensure that the principal EEO Professional reports directly to the agency head (or a direct report other than the General Counsel) in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.
9. Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

10. Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. Document this expectation and its implementation.
11. Ensure the managerial performance evaluation form contains a rating for EEO (which covers responsibilities and processes for assuring their ability to make employment decisions based on merit and equal consideration, or treat others in an equitable and impartial manner).

**Whereas**, within a two-week deadline following the EEPC's Preliminary Determination, the entity submitted a preliminary response; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on June 29, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from July 1, 2020 to December 31, 2020, to determine whether the entity eliminated areas of non-compliance, if any; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c) the entity was required to respond in 30 days, and make monthly reports thereafter for a period not to exceed six months, on the progress of its efforts to correct outstanding areas of non-compliance; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), on July 29, 2020, the entity issued a response to the EEPC's Final Determination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the Office of Administrative Tax Appeals was monitored until January 27, 2021; and

**Whereas**, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which requires agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the President submitted a copy of a memorandum to staff dated January 27, 2021, which recognized the EEPC's audit and reiterated commitment to the Office of Administrative Tax Appeals' equal employment practices; Now Therefore,

**Be It Resolved**, that the Office of Administrative Tax Appeals has satisfied the equal employment standards set by the EEPC pursuant to its authority under New York City Charter Chapters 35 and 36; and

**Be It Resolved**, that the EEPC's Board of Commissioners approves the issuance of this Determination of Compliance to President Frances J. Henn of the Office of Administrative Tax Appeals.

Approved unanimously on January 28, 2021.

\_\_\_\_\_  
/s/Sasha Neha Ahuja  
**Sasha Neha Ahuja**  
**Chair**

\_\_\_\_\_  
/s/Angela Cabrera  
**Angela Cabrera**  
**Commissioner**

\_\_\_\_\_  
/s/Arva R. Rice  
**Arva R. Rice**  
**Commissioner**

\_\_\_\_\_  
/s/Elaine S. Reiss  
**Elaine S. Reiss, Esq.**  
**Commissioner**

On behalf all Commissioners in attendance,

\_\_\_\_\_  
  
**Charise L Terry**  
**Executive Director**

This

# Determination of Compliance

is hereby issued to

## Office of Administrative Tax Appeals

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For successful implementation of *II* of *II* required corrective action(s),  
thereby achieving compliance with the Equal Employment Practices Commission's  
Sexual Harassment Prevention and Response Practices  
from January 1, 2018 to this date.

On this 28<sup>th</sup> day of January in the year 2021,



Charise L. Terry, Executive Director

In care of President Frances J. Henn  
and principal EEO Professional Leonard Picker