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**BY EMAIL**

August 6, 2020

Jumaane Williams  
Public Advocate  
Office of the Public Advocate  
1 Centre Street, 15<sup>th</sup> Floor  
New York, NY 10007

Audit Status:

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

Dear Public Advocate Williams:

Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter) authorize the Equal Employment Practices Commission (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 EEPC is currently conducting an audit of the Office of the Public Advocate’s sexual harassment prevention and response practices for the above-referenced period. As a crucial part of this audit, links to our Sexual Harassment Prevention and Response Preliminary Interview Questionnaires (PIQs) were sent on January 3, 2020, with a three-week deadline for completion. Completion of the PIQs provides significant information about the Office of the Public Advocate's efforts to ensure internal sexual harassment prevention and response practices are consistent with federal, state, and local laws and regulations, and policies.

Due to the absence of the Office of the Public Advocate’s response, the EEPC has no alternative but to issue the attached *Preliminary Determination*, which identifies twenty-nine (29) findings of non-compliance that require corrective action(s) in seven (7) specified areas.

As background, after receiving no response to the PIQs by the January 3, 2020 due date, the EEPC granted the Office of the Public Advocate an additional three (3) weeks and a second due date of March 13, 2020. Due to the continued lack of response, the EEO Program Analyst assigned to the audit sent follow-up reminder emails to the Office of the Public Advocate's principal EEO Professional Kashif Hussain on March 9, 12, and 13, 2020. On March 13, 2020, the Office of the Public Advocate's General Counsel Elizabeth Guzman, Esq., communicated that she would provide a submission on behalf of the Office of the Public Advocate during the week starting March 16, 2020. Subsequently, on that day, General Counsel Guzman stated that she would speak with you on the Office of the Public Advocate's plans and contact the EEPC shortly thereafter. At that time, the EEPC's Executive Agency Counsel/Director of Compliance alerted General Counsel Guzman that an additional request for an extension of time to respond to the PIQs must be submitted since a second deadline had elapsed. A request for extension was not submitted.

Due to the lack of response, on July 8, 2020, the EEO Analyst alerted principal EEO Professional, Hussain and General Counsel Guzman, via email that the EEPC's findings would be drafted based on the information currently available, which includes data from the Green Book, the Office of the Public Advocate's *Diversity and Equal Employment Opportunity Plan* for fiscal years 2018 and 2019, and the Office of the Public Advocate's CEEDS Report: *Work Force Composition Summary and Diversity and Equal Employment Opportunity Plans*. Neither principal EEO Professional Hussain nor General Counsel Guzman responded to this email.

To date, the EEPC has not received completed PIQs, or the necessary cooperation from the Office of the Public Advocate. In accordance with the New York City Charter, the EEPC issues the attached *Preliminary Determination*, which provides further steps that may be taken prior to the issuance of the EEPC's *Final Determination*. Subsequently, the EEPC is required to monitor the Office of the Public Advocate for up to six (6) months to ensure implementation of all corrective actions prescribed.

Thank you and your staff prompt attention and cooperation.

Sincerely,

  
Charise L. Terry  
Executive Director

Attachment

c: Kashif Hussain, Principal EEO Professional, Office of the Public Advocate  
Elizabeth Guzman, Esq., General Counsel, Office of the Public Advocate  
Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance, EEPC  
Ilacia Zuell, Manager, EEO Analysis and Audit Unit, EEPC  
Imani Bowen, EEO Program Analyst, EEPC



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Determination: **PRELIMINARY**

Dear Public Advocate Williams:

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 the Public Advocate's 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 the Public Advocate, 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 the Public Advocate on January 3, 2020; the PIQ(s) were not returned. Additional requests for information were made on January 24, 2020; February 21, 2020, February 24, 2020, March 16, 2020 and July 8, 2020; no response was received.

The following determination indicates where the Office of the Public Advocate 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

An independently elected public official, the Public Advocate represents the consumers of City services. The Public Advocate reviews and investigates complaints about City services, assesses whether agencies are responsive to the public, and recommends improvements in agency programs and complaint handling procedures. The Public Advocate serves as ombudsman, or go-between, for individuals who are having trouble getting the service, help or answers they need from City agencies and in this role, monitors the effectiveness of the City's public information and education efforts.

The Public Advocate has the right to participate in the discussions of the City Council, is an ex officio member of all Council committees, and can sponsor local legislation. The Public Advocate also monitors compliance of City officers and agencies with the New York City Charter.

The Public Advocate sits on the Board of Trustees of the New York City Employees' Retirement System. He appoints one member of the City Planning Commission, whose members serve five-year terms, and serves on the committee to select the director of the Independent Budget Office.

The Public Advocate chairs the Commission on Public Information and Communication and appoints one of its 11 members, and is one of seven members serving on the Audit Committee for the City of New York. The Public Advocate is an ex officio member of the board of the Museum of the City of New York and the Queens Borough Public Library, and of the Voter Assistance Commission, which is responsible for increasing participation in the City's democratic process. The Public Advocate also appoints two members of the Citywide Council on Special Education and two members of the Citywide Council on English Language Learners. The Public Advocate succeeds the Mayor in the event that the Mayor resigns, is removed, dies or otherwise is unable to discharge his powers and duties. A vacancy in the office of Public Advocate will be filled by popular election. In the interim, the Speaker of the City Council becomes a member of all the boards on which the Public Advocate sits. (Source: The Green Book 7/2020). At the end of the period in review, the Office of the Public Advocate had 55 employees. (CEEDS Report: *Work Force Composition Summary*, 2nd 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 the Public Advocate did not demonstrate that, during the period in review, it 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 the Public Advocate 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 conformed to city, state and federal laws against sexual harassment – for use by managers, supervisors, and legal, human resources and EEO professionals; that included or attached 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. **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 non-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 Office of the Public Advocate’s *Diversity and Equal Employment Opportunity Plan* for fiscal year 2019 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 the Public Advocate did not demonstrate that, during the period in review, it implemented 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. **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:** Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review.

**Determination:** The agency is in non-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.

- Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**Corrective Action #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.

5. Provide the option to file a complaint anonymously.

- Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any anonymous complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**Corrective Action #5:** Provide the option to file a complaint anonymously.

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.

- Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in

review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**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.

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

- Because the Office of the Public Advocate did not submit responses to the EEPC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**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.

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

- Because the Office of the Public Advocate did not submit responses to the EEPC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

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

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.

- Because the Office of the Public Advocate did not submit responses to the EEPC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**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.

**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.

- Because the Office of the Public Advocate did not submit responses to the EEPC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**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.

**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.

- Because the Office of the Public Advocate did not submit responses to the EEPC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**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.

**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 the Public Advocate did not demonstrate that, during the period in review, its complaint files were maintained in a secure area and ensured that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head. **Corrective Action Required.**

**NOTE:** Because the Office of the Public Advocate did not submit responses to the EEPC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review.

**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.

**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 the Public Advocate did not demonstrate that, during the period in review, it established 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. **Corrective Action Required.**

**NOTE:** Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review.

**Corrective Action #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.

**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.

- Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**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.

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



- Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

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

**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.

- Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review. As such, compliance with this standard could not be determined. **Corrective Action Required.**

**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.

**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.

- The Office of the Public Advocate did not demonstrate that, during the period in review, it established a complaint tracking and monitoring system that permitted 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. **Corrective Action Required.**

**NOTE:** Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review.

**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.

**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 Office of the Public Advocate did not demonstrate that, during the period in review, the General Counsel assisted the agency head in identifying and determining appropriate responses to sexual harassment; worked with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; informed the principal EEO Professional when external complaints or litigation involving sexual harassment is brought against the agency; was available to consult on internal sexual harassment complaint investigations; and was responsible for the investigation of, and response to, external sexual harassment complaints. **Corrective Action Required.**

**Corrective Action #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.

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

**Determination: The agency is in non-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.

- The Office of the Public Advocate did not demonstrate that, during the period in review, 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:** Because the Office of the Public Advocate did not submit responses to the EEPCC's PIQs, it is unknown whether the Office of the Public Advocate received any complaints during the period in review.

**Corrective Action #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.

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

**Determination: The agency is in non-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 the Public Advocate did not demonstrate that, during the period in review, it appointed a principal EEO Professional to implement EEO policies and standards within the agency who was 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. **Corrective Action Required.**

**Corrective Action #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.

**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 the Public Advocate did not demonstrate that, during the period in review, the responsibilities of the principal EEO Professional were competently discharged by providing adequate resources such as opportunities for continuing education and professional development, and/or support staff to meet EEO obligations. **Corrective Action Required.**

**Corrective Action #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.

**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.

- The Office of the Public Advocate did not demonstrate whether, during the period in review, its organizational structure necessitated the need for multiple EEO professionals who were selected from different office locations and, where possible, from a variety of levels within the organization structure and who were trained in EEO laws and procedures, and their responsibilities under the EEO Policy. **Corrective Action Required.**

**Corrective Action #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.

**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.

- The Office of the Public Advocate did not demonstrate that, during the period in review, the principal EEO Professional worked with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment. **Corrective Action Required.**

**Corrective Action #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.

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

**Corrective Action #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.

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 the Public Advocate 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 judgement to fulfill EEO responsibilities. **Corrective Action Required.**

**Corrective Action #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.

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 the Public Advocate 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 #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.

## **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 the Public Advocate did not demonstrate that, during the period in review, it documented the expectation and implementation of managers and supervisors being held accountable for enforcing the agency's sexual harassment prevention policies and complaint procedures. **Corrective Action Required.**

**Corrective Action #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.

**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 the Public Advocate 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 #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).

## **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 the Public Advocate submitted its *Diversity and Equal Employment Opportunity Plan* for fiscal years 2018 and 2019.
- The Office of the Public Advocate did not submit its *Diversity and Equal Employment Opportunity Plan* for fiscal year 2020. **Corrective Action Required.**

**Corrective Action #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.

**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 the Public Advocate has **30** required corrective action(s) at this time. This includes the aforementioned final action.

**Conclusion**

Pursuant to Charter Chapter 36, the Office of the Public Advocate 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 the Public Advocate's 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 the Public Advocate's implementation of the prescribed corrective action(s).

*(No Response Option)* If the Office of the Public Advocate 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 the Public Advocate 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.

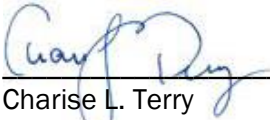
In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's EEO Program Analysts during the course of our audit and analysis.

Respectfully Submitted by,



Imani Bowen, EEO Program Analyst

Approved by,



Charise L. Terry  
Executive Director

C:

Kashif Hussain, principal EEO Professional, Office of the Public Advocate  
Ilacia Zuell, Manager, EEO Analysis and Audit Unit, EEPD

## **Appendix – 1**

Office of the Public Advocate

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

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

RUN DATE: 01/03/20  
 RUN TIME: 13:44:06.5

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
 WORK FORCE COMPOSITION SUMMARY  
 QUARTER 2 YEAR 2020 AGENCY 101 PUBLIC ADVOCATE

PAGE: 116  
 REPORT: EBEP210

AGENCY CODE : 101 PUBLIC ADVOCATE  
 EEO JOB GROUP : 001 ADMINISTRATORS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP	
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN			
94495	PUBLIC ADVOCATE	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
94498	COUNSEL TO THE PUBLIC ADVO	1	0	0	0	0	0	0	0	1	0	0	0	0	0	2
EEO JOB GROUP TOTAL.....:		1	1	0	0	0	0	0	0	1	0	0	0	0	0	3
		33.34	33.33	0.00	0.00	0.00	0.00	0.00	0.00	33.33	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 101 PUBLIC ADVOCATE  
 EEO JOB GROUP : 002 MANAGERS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
60809	LEGISLATIVE INFORMATION OF	0	0	1	1	0	0	1	2	0	0	0	2	0	7
94327	DIRECTOR OF THE OMBUDSMAN	0	0	0	0	0	0	0	1	0	0	0	1	0	2
94506	DIRECTOR OF COMMUNICATIONS	1	0	0	0	0	0	0	1	0	0	0	0	0	2
94508	OFFICE MANAGER (PUBLIC ADV	1	0	1	0	0	0	0	2	2	0	0	0	0	6
EEO JOB GROUP TOTAL.....:		2	0	2	1	0	0	1	6	2	0	0	3	0	17
		11.78	0.00	11.76	5.88	0.00	0.00	5.88	35.29	11.76	0.00	0.00	17.65	0.00	100.00

AGENCY CODE : 101 PUBLIC ADVOCATE  
 EEO JOB GROUP : 003 MANAGEMENT SPECIALISTS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
94496	ASSISTANT TO THE PUBLIC AD	4	1	1	1	0	0	1	3	0	0	0	1	0	12
94497	ASSISTANT TO THE PUBLIC AD	1	4	1	1	0	0	3	2	0	0	1	1	0	14
94501	FIRST ASSISTANT TO THE PUB	0	2	0	0	0	0	0	1	0	0	0	0	0	3
94512	SPECIAL ASSISTANT (PUBLIC	0	1	0	0	0	0	0	0	2	0	0	0	0	3
EEO JOB GROUP TOTAL.....:		5	8	2	2	0	0	4	6	2	0	1	2	0	32
		15.62	25.00	6.25	6.25	0.00	0.00	12.50	18.75	6.25	0.00	3.13	6.25	0.00	100.00

AGENCY CODE : 101 PUBLIC ADVOCATE  
 EEO JOB GROUP : 013 CLERICAL

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
94500	EXECUTIVE SECRETARY TO THE	0	0	0	0	0	0	0	1	0	0	0	0	0	1
94507	OFFICE ASSISTANT (PUBLIC A	0	0	0	0	0	0	0	2	0	0	0	0	0	2

RUN DATE: 01/03/20  
RUN TIME: 13:44:06.5

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES  
CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)  
WORK FORCE COMPOSITION SUMMARY  
QUARTER 2 YEAR 2020 AGENCY 101 PUBLIC ADVOCATE

PAGE: 117  
REPORT: EBEP210

EEO JOB GROUP TOTAL.....:	0	0	0	0	0	0	0	0	3	0	0	0	0	3
	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	0.00	0.00	0.00	0.00	0.00	100.00

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AGENCY TOTAL.....:	8	9	4	3	0	0	5	15	5	0	1	5	0	55
	14.56	16.36	7.27	5.45	0.00	0.00	9.09	27.27	9.09	0.00	1.82	9.09	0.00	100.00



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK  
**Jumaane D. Williams**

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**BY EMAIL**

August 20, 2020

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

Re: Response to Preliminary Determination

Dear Ms. Terry:

Thank you for the detailed preliminary determinations. Before I respond to various findings and recommended corrective actions, I'd like to note that I was sworn in as the NYC Public Advocate March 19, 2019. Letitia James served as Public Advocate through December 31, 2018, when she vacated the office to become the state attorney general. James was followed by the NYC Council Speaker Corey Johnson, who served from January 1, 2019 through March 18, 2019. Consequently, my staff has little information concerning EEO practices and procedures before my start date - March 19, 2019. Very few staff members remained with the office, further complicating the transition from the James administration to the Speaker and, finally, to me. We simply do not have sufficient information to report on EEO matters that predate my taking office. Our General Counsel has drafted the policies currently in effect and, under my leadership and with the assistance of our EEO Officers, has established the comprehensive EEO plan we follow, which hews closely to the procedures set forth by DCAS.

I also note that my staff has been teleworking since early March 2020 and continues to do so. This has complicated gathering and providing proof of the preventative actions we've taken, of which we are proud.

**RESPONSES TO EEPD DETERMINATIONS**

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

Please see **Attachment # 1**, the OPA Anti- Sexual Harassment and Discrimination Policy, which stresses and reiterates my commitment and my staff's commitment to the prevention of sexual harassment and harassment in any form. This Policy is distributed to staff members via their on-boarding packet, email and upon request. The policy is available on our Google Drive and is posted on our Intranet. In addition, the General





PUBLIC ADVOCATE FOR THE CITY OF NEW YORK  
**Jumaane D. Williams**

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Counsel has periodically emailed the policy to all staff. The policy was first drafted and distributed August 2019.

**Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy**

Please see **Attachment # 2**.

Upon hire, staff members are given hard copies of the *NYC EEO Policy (2014)*, an *Acknowledgment of Receipt* to be signed by the new staff member and an EEO Officer, and a booklet distributed by DCAS titled *About EEO: What You May Not Know*, among other documents. Additional hard copies are available in our common areas and links to the documents are available via our Intranet.

Unfortunately, because we are telecommuting, we do not have access to staff files, which include the executed *Acknowledgment of Receipt* forms. [REDACTED] our principal EEO Officer and HR Manager, joined our office during this work from home period. Because we could not provide hard copies of office policies to [REDACTED] our Deputy Chief of Staff sent various emails that included all of the onboarding documents. These emails should serve as proof of the EEO data we provide to each staff member immediately upon hire.

**II. Training**

Within the first week of employment and each year of continued employment, staff members must complete 4 DCAS trainings, including *DCAS Sexual Harassment Prevention Training (CBT)* and the *Equal Employment Opportunity (CBT)* training. In addition, upon hire, staff members must complete the NYCCHR Anti Sexual Harassment online training. Staff members must provide certifications of completion. Please see **Attachment # 3** for Training Attendance.

Each year, all staff members must complete the group DCAS Sexual Harassment Training. Our staff members fulfilled the 2020 training mandate just recently. Our staff joined a webinar training sponsored by DCAS on one of two days: August 6, 2020 and August 11, 2020.

Please see **Attachments #4, #5 and #6** for the DCAS participant lists and our internal training completion list and spreadsheet, which confirm attendance.

**III. Complaint and Investigation Procedures**

Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK  
**Jumaane D. Williams**

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agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed.

There were **zero** external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.

All EEO-related materials (minimal) are kept in locked cabinets in the locked office of our General Counsel. If the General Counsel is not in attendance and either I or other appropriate staff members wish to locate and review any EEO-related materials, our Chief of Staff or Deputy Chief of Staff would make available a passkey with which we would gain access to her office.

Concerning the availability of our General Counsel, I will affirm that [REDACTED] and I met privately and frequently to discuss EEO and related harassment, discrimination or bullying matters as we hired personnel, drafted our policies and established our office.

[REDACTED] also met regularly with our two 2019 EEO Officers and reviewed and shared research materials with them. If necessary, our two former EEO Officers will confirm her availability. She made herself available to staff members who sought to discuss in more detail sexual harassment and EEO matters. This role shifted once we hired an EEO Officer/HR Manager, which, due to budgetary constraints, became possible May 2020.

There have been no external complaints while I have been in office. Therefore, [REDACTED] has not had the opportunity to oversee the investigation of or respond to any external sexual harassment complaint. Procedures are in place for handling both internal and external complaints. However, since we've not handled more than the one case, our experience is limited.

#### **IV. Annual Review**

As I noted at the onset, my PA tenure commenced March 19, 2019. By my one-year anniversary, March 18, 2020, the pandemic was raging and my staff and I had started teleworking. Our General Counsel first joined our office July 2019. She just finished her first year as the OPA General Counsel. The case is the same with our two former EEO Officers, [REDACTED]. Our current principal EEO professional, [REDACTED] was just hired May 2020 due to our limited budget. It is no exaggeration to say that our office became fully operational fall 2019. Our staff numbers increased to 52 by late December. Thus, in terms of policies and procedures that carry from year to year, my administration is in its early days. What we set now is what will carry.

With no formal system left in place by the previous administration, it is just now that we have begun to evaluate our EEO and EEO-related policies and procedures. To this end, and to determine how effectively we have conveyed and shared our commitment to an



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK  
**Jumaane D. Williams**

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office free of harassment and discrimination in any form, we have recently contracted with Race for Equity. The organization will provide us with an in-depth all-staff 3-month training program.

Our goal is to improve, share and excite our staff with a communal dedication to creating a workplace and country free of sexual harassment, sexism and all troubling isms.

Our staff is diverse in all ways. We are proud of this achievement.

**VII. Reporting Standards for Agency Head**

Please note that OPA submitted its Diversity and Equal Employment Opportunity Plan for fiscal year 2020. The Plan was emailed June 8, 2020 to [REDACTED] (DCAS), [REDACTED] (DCAS) and [REDACTED] (DCAS). Please see **Attachment # 7** for the Plan. The General Counsel forwarded the pertinent email with the accompanying attachment to your staff Saturday August 15, 2020.

Please see **Attachment # 8** for a compilation of emails from my General Counsel to our staff concerning EEO matters and forwarding pertinent information and documents. She has copied and pasted to a Word document. We are happy to forward the emails directly, but imagined may be cumbersome to receive so much email related to one subject matter and one government entity. Do let us know. We are happy to provide you with the actual correspondence.

I look forward to our continued partnership. Thank you for your generous assistance.

Warm Regards,

Jumaane D. Williams



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**

September 4, 2020

Jumaane Williams  
Public Advocate  
Office of the New York City Public Advocate  
1 Centre Street, 15th Floor  
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/242-101-(2020)**

Dear Public Advocate Williams:

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: August 6, 2020

Response Received: August 20, 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 the New York City Public Advocate's Sexual Harassment Prevention and Response Practices.

As the Office of the New York City Public Advocate 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 the New York City Public Advocate's 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: October 1, 2020 to March 31, 2021. 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 the New York City Public Advocate has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Office of the New York City Public Advocate will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Office of the New York City Public Advocate 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 the New York City Public Advocate's implementation of the final corrective action, if any, the EEPC requires that the Office of the New York City Public Advocate 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 the New York City Public Advocate must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Office of the New York City Public Advocate 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: Teisha Stallings, principal EEO Professional, Office of the New York City Public Advocate  
Elizabeth Guzman, General Counsel, Office of the New York City Public Advocate

Enclosed: TeamCentral Agency Manual



### FINAL DETERMINATION

A response indicating progress of the Office of the New York City Public Advocate's 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:

#### Agree

Regarding your responses to the following EEPC required corrective actions, we *Agree* based on documentation that is attached to your response.

#### 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:

*"Within the first week of employment and each year of continued employment, staff members must complete 4 DCAS trainings, including DCAS Sexual Harassment Prevention Training (CBT) and the Equal Employment Opportunity (CBT) training. In addition, upon hire, staff members must provide certifications of completion. Please see Attachment #3 for Training Attendance. Each year, all staff members must complete the group DCAS Sexual Harassment Training. Our staff members fulfilled the 2020 training mandate just recently. Our staff joined a webinar training sponsored by DCAS on one of two days: August 6, 2020 and August 11, 2020. Please see Attachments #4, #5, and #6 for DCAS participant lists and our internal training completion list and spreadsheet, which confirm attendance."*

#### EEPC Response:

The EEPC accepts the agency's response and documentation provided as confirmation that Corrective Action #3 has been implemented. Provided training logs indicate that on August 6 and August 11, 2020, 21 and 24 employees respectively, which combined account for approximately 100% of the workforce at the end of the period in review, 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 Office of the New York City Public Advocate (OPA) established and implemented 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.

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

**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.

**Agency Response:**

*“All EEO-related materials (minimal) are kept in locked cabinets in the locked office of our General Counsel. If the General Counsel is not in attendance and either I [Public Advocate] or other appropriate staff members wish to locate and review any EEO-related materials, our Chief of Staff or Deputy Chief of Staff would make available a passkey with which we would gain access to [the General Counsel’s] office.”*

**EEPC Response:**

The EEPC accepts the agency’s response as confirmation that Corrective Action #12 has been implemented. OPA maintains its complaint files in a secure area and ensures that they can be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head.

**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:**

*“Please see Attachment #1, the OPA Anti-Sexual Harassment and Discrimination Policy, which stresses and reiterates my commitment and my staff’s commitment to the prevention of sexual harassment and harassment in any form. This Policy is distributed to staff members via their on-boarding packet, email and upon request. The policy is available on our Google Drive and is posted on our Intranet. In addition, the General Counsel has periodically emailed the policy to all staff. The policy was first drafted and distributed August 2019.”* The agency submitted its *Anti-Discrimination and Harassment Policy, 2019 – 2020*.

**EEPC Response:**

The EEPC recognizes OPA’s commitment to implement Corrective Action #1. To demonstrate compliance, provide proof of distribution or posting of the *Anti-Discrimination and Harassment Policy, 2019 – 2020* to all employees. Implementation of this corrective action will be monitored during the assigned 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:

*“Please see Attachment #2. Upon hire, staff members are given hard copies of the NYC EEO Policy (2014), an Acknowledgement of Receipt to be signed by the new staff member and an EEO Officer, and a booklet distributed by DCAS titled About EEO: What You May Not Know, among other documents. Additional hard copies are available in our common areas and links to the documents are available via our Intranet. Unfortunately, because we are telecommuting, we do not have access to staff files, which include the executed Acknowledgement of Receipt forms. [name], our principal EEO Officer and HR Manager, joined our office during this work from home period. Because we could not provide hard copies of office policies to [principal EEO Professional], Deputy Chief of Staff sent various emails that included all of the onboarding documents. These emails should serve as proof of the EEO data we provide to each staff member immediately upon hire.”* The agency submitted its new hire on-boarding documents, which included the *Equal Employment Policy, Standards and Procedures to Be Utilized by City Agencies, 2014*.

EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #2. To demonstrate compliance, submit copies of the signed *Acknowledgment of Receipts* or documentation of the posting or distribution of the agency’s EEO Policy, which conforms to city, state and federal laws against sexual harassment that 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #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.

Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #4. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that the complaint file included 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #5:

Provide the option to file a complaint anonymously.

Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the*

*appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #5. To demonstrate compliance, provide documentation that demonstrates that the agency provided the option to file a complaint anonymously. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #6. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that the respondent was served 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 their choice. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #7. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that written confirmation was issued when an internal complaint/mediation was terminated, withdrawn or resolved by agreement of the parties or EEO Office. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #8:**

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

**Agency Response:**

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

**EEPC Response:**

The EEPC recognizes OPA’s commitment to implement Corrective Action #8. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that notes of words spoken and facts provided were taken during each interview and maintained in the investigation file. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

**Agency Response:**

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

**EEPC Response:**

The EEPC recognizes OPA’s commitment to implement Corrective Action #9. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that an investigation commenced immediately and that a conclusive report was issued within 90 days of the date the complaint was filed. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

**Agency Response:**

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were*



*zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #10. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, that the reason for the delay is specified in the complaint file, a time-frame is projected for completion of the report, and that the complainant and respondent are notified of the delay. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #11. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that a conclusive confidential report was generated at the end of the complaint investigation which included 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #13. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that the agency head (or an approved direct report other than the General Counsel) reviewed the principal investigator's conclusive report; issued a written/electronic determination adopting, rejecting, or modifying the recommended action; and signed each determination, via writing or electronically, to indicate it had been reviewed and adopted. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

Agency Response:

*"Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available."*

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #14. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that each complainant and respondent were informed of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #15:**

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

Agency Response:

*"Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available."*

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #15. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #16. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that the complainant and respondent were notified in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

*“Concerning the availability of our General Counsel, I will affirm that [General Counsel] and I met privately and frequently to discuss EEO and related harassment, discrimination or bullying matters as we hired personnel, drafted our policies and established our office. [General Counsel] also met regularly with our two 2019 EEO Officers and reviewed and shared research materials with them. If necessary, our two former EEO Officers will confirm [General Counsel] availability. [General Counsel] [was] available to staff members who sought to discuss in more detail sexual harassment and EEO matters. This role shifted once we hired an EEO Officer/HR Manager, which, due to budgetary constraints, became possible May 2020. There have been no external complaints while I have been in office. Therefore, [General Counsel] has not had the opportunity to oversee the investigation of or respond to any external sexual harassment complaint.*



*Procedures are in place for handling both internal and external complaints. However, since we've not handled more than one case, our experience is limited."*

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #18. To demonstrate compliance, provide documentation that demonstrates that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment (e.g. meeting minutes from the referenced meetings); works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; is responsible for informing 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

*"As I noted at the onset, my PA tenure commenced March 19, 2019. By my one-year anniversary, March 18, 2020, the pandemic was raging and my staff and I had started teleworking. Our General Counsel first joined our office July 2019. [They] just finished [their] first year as the OPA General Counsel. The case is the same with our two former EEO Officers, [names]. Our current principal EEO professional, [name], was just hired May 2020 due to our limited budget. It is no exaggeration to say that our office became fully operational fall 2019. Our staff numbers increased to 52 by late December. Thus, in terms of policies and procedures that carry from year to year, my administration is in its early days. What we set now is what will carry. With no formal system left in place by the previous administration, it is just now that we have begun to evaluate our EEO and EEO-related policies and procedures. To this end, and to determine how effectively we have conveyed and shared our commitment to an office free of harassment and discrimination in any form, we have recently contracted with Race for Equity. The organization will provide us with an in-depth all-staff 3-month training program. Our goal is to improve, share and excite our staff with a communal dedication to creating a workplace and country free of sexual harassment, sexism and all troubling isms. Our staff is diverse in all ways. We are proud of this achievement."*

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #19. To demonstrate compliance, provide documentation that the principal EEO Professional, HR Professional, and General Counsel, reviewed the number of sexual harassment complaints, if any, 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.



Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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).

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

**Corrective Action #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. Include a breakout of sexual harassment complaint activity in each quarterly report.

**Agency Response:**

*“Please note that OPA submitted its Diversity and Equal Employment Opportunity Plan for fiscal year 2020. The Plan was emailed June 8, 2020 to [name], (DCAS), [name], (DCAS) and [name] (DCAS). Please see Attachment #7 for the Plan. The General Counsel forwarded the pertinent email with the accompanying attachment to your staff Saturday August 15, 2020.”* Attachment #7 contained no documentation.

**EEPC Response:**

The EEPC recognizes OPA’s commitment to implement Corrective Action #29. To demonstrate compliance, the entity should provide its *Diversity and Equal Employment Opportunity Plan* for fiscal year 2020. Going forward, OPA should ensure submission of its *Diversity and Equal Employment Opportunity Plan* to the EEPC via [DiversityEEOPlansQuarterlyReports@eepc.nyc.gov](mailto:DiversityEEOPlansQuarterlyReports@eepc.nyc.gov). Implementation of this corrective action will be monitored during the assigned 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/242-101-(2020)  
Office of the New York City Public Advocate  
Public Advocate Jumaane Williams  
Sexual Harassment Prevention and Response Practices  
DETERMINATION: FINAL

SYNOPSIS

<b>Corrective Action(s):</b>	<b>Total: 29</b>		
<b>Period Audit Covered:</b>	January 1, 2018 to December 31, 2019		
<b>Preliminary Determination Issued:</b>	August 6, 2020	Response Received	August 20, 2020
<b>Final Determination Issued:</b>	September 4, 2020	Response Due	October 4, 2020
<b>Compliance-Monitoring:</b>	Required	October 1, 2020 to March 31, 2021	

**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 the New York City Public Advocate’s Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of the New York City Public Advocate’s Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated August 6, 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. 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.
5. Provide the option to file a complaint anonymously.
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.
7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
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.
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.
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.

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

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.
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.
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.
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.
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.
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).
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 Page 15 of 16 Preliminary Determination: Office of the New York City Public Advocate following each quarter. Include a breakout of sexual harassment complaint activity in each quarterly report.

**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 September 4, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from October 1, 2020 to March 31, 2021, 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 September 4, 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 Public Advocate Jumaane Williams to assign compliance-monitoring.

Approved unanimously on September 24, 2020.

\_\_\_\_\_  
/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**



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

## Jumaane D. Williams

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**BY EMAIL**

**October 14, 2020**

**Cherise Terry, Executive Director  
Equal Employment Practices Commission  
253 Broadway  
Suite 602  
New York, NY 10007**

**Dear Cherise Terry:**

**First and foremost, I would like to thank you and your staff for the guidance and assistance provided to my staff during this process. Below is my office's response to your final determination. We will work diligently with your office to take the necessary corrective actions to achieve full compliance.**

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:

*"Please see Attachment #1, the OPA Anti-Sexual Harassment and Discrimination Policy, which stresses and reiterates my commitment and my staff's commitment to the prevention of sexual harassment and harassment in any form. This Policy is distributed to staff members via their on-boarding packet, email and upon request. The policy is available on our Google Drive and is posted on our Intranet. In addition, the General Counsel has periodically emailed the policy to all staff. The policy was first drafted and distributed August 2019."* The agency submitted its *Anti-Discrimination and Harassment Policy, 2019 – 2020*.

EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #1. To demonstrate compliance, provide proof of distribution or posting of the *Anti-Discrimination and Harassment Policy, 2019 – 2020* to all employees. Implementation of this corrective action will be monitored during the assigned compliance- monitoring period.



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### Agency Final Determination Response:

The Office will provide proof of email sent to all staff from Public Advocate containing Sexual Harassment Policy.

### 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:

*"Please see Attachment #2. Upon hire, staff members are given hard copies of the NYC EEO Policy (2014), an Acknowledgement of Receipt to be signed by the new staff member and an EEO Officer, and a booklet distributed by DCAS titled About EEO: What You May Not Know, among other documents. Additional hard copies are available in our common areas and links to the documents are available via our Intranet. Unfortunately, because we are telecommuting, we do not have access to staff files, which include the executed Acknowledgement of Receipt forms. [name], our principal EEO Officer and HR Manager, joined our office during this work from home period. Because we could not provide hard copies of office policies to [principal EEO Professional], Deputy Chief of Staff sent various emails that included all of the onboarding documents. These emails should serve as proof of the EEO data we provide to each staff member immediately upon hire."* The agency submitted its new hire on-boarding documents, which included the *Equal Employment Policy, Standards and Procedures to Be Utilized by City Agencies, 2014*.

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #2. To demonstrate compliance, submit copies of the signed *Acknowledgment of Receipts* or documentation of the posting or distribution of the agency's EEO Policy, which conforms to city, state and federal laws against sexual harassment that 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



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discrimination/sexual harassment. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of email sent to all staff informing of EEO Officers. The Office will also provide proof of EEO policy sent to all staff members.

### Corrective Action #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.

### Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #4. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that the complaint file included 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of documentation from a complaint filed subsequent to the review period.

### Corrective Action #5:

Provide the option to file a complaint anonymously.



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### Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #5. To demonstrate compliance, provide documentation that demonstrates that the agency provided the option to file a complaint anonymously. Implementation of this corrective action will be monitored during the assigned compliance- monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current complaint form with option to file anonymously as well as initiatives to implement an electronic anonymous filing option.

### 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.

### Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #6. To demonstrate compliance, provide documentation from a complaint filed subsequent to



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the period in review that demonstrates that the respondent was served 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 their choice. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and a redacted letter sent to the respondent in current investigation.

### 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.

### Agency Response:

*"Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available."*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #7. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that written confirmation was issued when an internal complaint/mediation was terminated, withdrawn or resolved by agreement of the parties or EEO Office. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in current investigation.

### Corrective Action #8:

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





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### Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #8. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that notes of words spoken and facts provided were taken during each interview and maintained in the investigation file. Implementation of this corrective action will be monitored during the assigned compliance- monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.

### 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.

### Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #9. To demonstrate compliance, provide documentation from a complaint filed subsequent to



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the period in review, that demonstrates that an investigation commenced immediately and that a conclusive report was issued within 90 days of the date the complaint was filed. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.

### 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.

### Agency Response:

*"Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available."*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #10. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, that the reason for the delay is specified in the complaint file, a time- frame is projected for completion of the report, and that the complainant and respondent are notified of the delay. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.



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### 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.

### Agency Response:

*"Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available."*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #11. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that a conclusive confidential report was generated at the end of the complaint investigation which included 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.

### Corrective Action #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.

### Agency Response:



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*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #13. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that the agency head (or an approved direct report other than the General Counsel) reviewed the principal investigator’s conclusive report; issued a written/electronic determination adopting, rejecting, or modifying the recommended action; and signed each determination, via writing or electronically, to indicate it had been reviewed and adopted. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.

### 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.

### Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #14. To demonstrate compliance, provide documentation from a complaint filed subsequent to



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the period in review, that demonstrates that each complainant and respondent were informed of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.

### Corrective Action #15:

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

### Agency Response:

*"Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available."*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #15. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review that demonstrates that each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.

### 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.



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### Agency Response:

*“Our EEO Officers received a total of one internal complaint between March 2019 and December 2019. The complaint did not concern sexual harassment. An investigation was commenced immediately. After the appropriate investigation and findings, the parties agreed to mediation. However, the complainant resigned before the case was completed. The resignation was completely unrelated to the complaint filed. There were zero external complaints, thus no writings exist related to any external EEO complaint. No documentation is available.”*

### EEPC Response:

The EEPC recognizes OPA’s commitment to implement Corrective Action #16. To demonstrate compliance, provide documentation from a complaint filed subsequent to the period in review, that demonstrates that the complainant and respondent were notified in writing when the investigation by the EEO professional has been transferred because of the filing of an external complaint. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of current form letters and progress in the current investigation.

### 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.

### Agency Response:

No agency response received.

### EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of complaint tracking system.





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### Corrective Action #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.

### Agency Response:

*"Concerning the availability of our General Counsel, I will affirm that [General Counsel] and I met privately and frequently to discuss EEO and related harassment, discrimination or bullying matters as we hired personnel, drafted our policies and established our office. [General Counsel] also met regularly with our two 2019 EEO Officers and reviewed and shared research materials with them. If necessary, our two former EEO Officers will confirm [General Counsel] availability. [General Counsel] [was] available to staff members who sought to discuss in more detail sexual harassment and EEO matters. This role shifted once we hired an EEO Officer/HR Manager, which, due to budgetary constraints, became possible May 2020. There have been no external complaints while I have been in office. Therefore, [General Counsel] has not had the opportunity to oversee the investigation of or respond to any external sexual harassment complaint. Procedures are in place for handling both internal and external complaints. However, since we've not handled more than one case, our experience is limited."*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #18. To demonstrate compliance, provide documentation that demonstrates that the General Counsel assists the agency head in identifying and determining appropriate responses to sexual harassment (e.g. meeting minutes from the referenced meetings); works with the principal EEO Professional in the implementation of the City's policies and procedures pertaining to sexual harassment; is responsible for informing 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:





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## Jumaane D. Williams

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The Office will provide proof of the EEO Officer and General Counsel meeting privately and frequently to discuss Sexual Harassment and EEO matters and procedures. Will also issue acknowledgement of no current external complaints.

### Corrective Action #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.

### Agency Response:

*"As I noted at the onset, my PA tenure commenced March 19, 2019. By my one-year anniversary, March 18, 2020, the pandemic was raging and my staff and I had started teleworking. Our General Counsel first joined our office July 2019. [They] just finished [their] first year as the OPA General Counsel. The case is the same with our two former EEO Officers, [names]. Our current principal EEO professional, [name], was just hired May 2020 due to our limited budget. It is no exaggeration to say that our office became fully operational fall 2019. Our staff numbers increased to 52 by late December. Thus, in terms of policies and procedures that carry from year to year, my administration is in its early days. What we set now is what will carry. With no formal system left in place by the previous administration, it is just now that we have begun to evaluate our EEO and EEO-related policies and procedures. To this end, and to determine how effectively we have conveyed and shared our commitment to an office free of harassment and discrimination in any form, we have recently contracted with Race for Equity. The organization will provide us with an in-depth all-staff 3-month training program. Our goal is to improve, share and excite our staff with a communal dedication to creating a workplace and country free of sexual harassment, sexism and all troubling isms. Our staff is diverse in all ways. We are proud of this achievement."*

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #19. To demonstrate compliance, provide documentation that the principal EEO Professional, HR Professional, and General Counsel, reviewed the number of sexual harassment complaints, if any, 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. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.



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### Agency Final Determination Response:

The Office will provide proof of the EEO Professional, HR Professional and General Counsel's upcoming Annual Review of practices.

### Corrective Action #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.

### Agency Response:

No agency response received.

### EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of the EEO Officers training relating to EEO policies and standards.

### Corrective Action #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.

### Agency Response:

No agency response received.

### EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:



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The Office will provide proof of the EEO Officers training relating to EEO policies and standards.

Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Agency Final Determination Response:

The Office will provide proof of the EEO Officers and their training relating to EEO policies and standards.

Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Agency Final Determination Response:

The Office will provide proof of the EEO Professional, HR Professional and General Counsel's upcoming Annual Review of practices.



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### Corrective Action #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.

### Agency Response:

No agency response received.

### EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:

The Office will provide proof of distribution for the Sexual Harassment Training Policy and EEO policy. The Office will also provide Tasks and Standards for EEO Professionals.

### Corrective Action #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.

### Agency Response:

No agency response received.

### EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### Agency Final Determination Response:



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The Office will provide proof of the reporting structure of Principal EEO Professional for EEO related matters.

Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Agency Final Determination Response:

The Office will provide proof of discussions between the Public Advocate (or direct report other than GC) and EEO Professional concerning administration of programs and procedures concerning sexual harassment.

Corrective Action #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.

Agency Response:

No agency response received.

EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Agency Final Determination Response:

The Office will provide proof of expectation and implementation of EEO policies and practices memo to Managers and Supervisors.



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### Corrective Action #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).

### Agency Response:

No agency response received.

### EEPC Response:

Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

### [Agency Final Determination Response:](#)

[The Office will provide proof of performance evaluation form with rating for EEO.](#)

### Corrective Action #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. Include a breakout of sexual harassment complaint activity in each quarterly report.

### Agency Response:

*"Please note that OPA submitted its Diversity and Equal Employment Opportunity Plan for fiscal year 2020. The Plan was emailed June 8, 2020 to [name], (DCAS), [name], (DCAS) and [name] (DCAS). Please see Attachment #7 for the Plan. The General Counsel forwarded the pertinent email with the accompanying attachment to your staff Saturday August 15, 2020."* Attachment #7 contained no documentation.

### EEPC Response:

The EEPC recognizes OPA's commitment to implement Corrective Action #29. To demonstrate compliance, the entity should provide its *Diversity and Equal Employment Opportunity Plan* for fiscal year 2020. Going forward, OPA should ensure submission of its *Diversity and Equal Employment Opportunity Plan* to the EEPC via [DiversityEEOPlansQuarterlyReports@eepc.nyc.gov](mailto:DiversityEEOPlansQuarterlyReports@eepc.nyc.gov). Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.



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Agency Final Determination Response:

The Office will provide proof of Diversity and Equal Employment Opportunity Plan.

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.

**Thank you and your staff for your continued support.**

Sincerely,

A handwritten signature in black ink, appearing to read "J.D. Williams".

**Jumaane D. Williams**  
New York City Public Advocate



# Memorandum

**TO:** All Employees  
**FROM:** Equal Employment Practices Commission  
**DATE:** 4/7/2021  
**RE:** Audit: Review, Evaluation, and Monitoring of Sexual Harassment Prevention and Response Practices  
Office of the New York City Public Advocate

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The New York City Charter requires the Equal Employment Practices Commission (EEPC) 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 EEPC recently concluded an audit and evaluation of the Office of the New York City Public Advocate’s 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. 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.

5. Provide the option to file a complaint anonymously.
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.
7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
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.
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.
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.
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.
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.
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.
15. Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.
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.

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.
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.
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.
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.
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.
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.
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.
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.

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.
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.
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.
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).
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.

Through successful completion of the EEPC's audit, evaluation, and monitoring processes and the aforementioned enhancements Public Advocate Williams reaffirms the commitment to ensuring that the Public Advocate's 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.



**Vacant**  
Chair

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

**Jeanne M. Victor**  
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**

April 22, 2021

Jumaane Williams  
Public Advocate  
Office of the New York City Public Advocate  
1 Centre Street, 15<sup>th</sup> Floor  
New York, New York 10007

Re: Resolution #2020AP/248-101-(2021)C20  
DETERMINATION: Compliance

Dear Public Advocate Williams:

On behalf of the members of the Equal Employment Practices Commission (EEPC), 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 EEPC's Board of Commissioners has approved the attached Determination.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Elaine S. Reiss". The signature is fluid and cursive.

Elaine S. Reiss, Esq.  
Commissioner

c: Teisha Stallings, principal EEO Professional, Human Resources Manager, Office of the New York City Public Advocate



**Monitoring of Sexual Harassment Prevention and Response Practices**

**RESOLUTION NO.**

**2020AP/248-101-(2021)C20**

**Office of the New York City Public Advocate**

**Public Advocate Jumaane Williams**

**DETERMINATION: COMPLIANCE**

**SYNOPSIS**

<b>Corrective Action(s):</b>	Total: 29		
<b>Period Audit Covered:</b>	January 1, 2018 to December 31, 2019		
<b>Preliminary Determination Issued:</b>	August 6, 2020	Response Received	August 20, 2020
<b>Final Determination Issued:</b>	September 4, 2020	Response Received	October 14, 2020
<b>Compliance-Monitoring:</b>	Required	October 1, 2020 to March 31, 2021	without 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 (EEOC) 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 EEOC 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 EEOC 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 EEOC’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 EEOC conducted an audit, review, and evaluation of the Office of the New York City Public Advocate’s Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of the New York City Public Advocate’s Sexual Harassment Prevention and Response Practices, the EEOC issued a Preliminary Determination, dated August 6, 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. 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.
5. Provide the option to file a complaint anonymously.
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.
7. Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
8. Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
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.
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.
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.

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

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.
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.
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.
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.
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.
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.
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.
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).
29. Submit to the EEPCC 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.

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

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPCC issued a Final Determination on September 4, 2020, which indicated that the following areas

required corrective action: no(s). 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from October 1, 2020 to March 31, 2021, 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 October 14, 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 the New York City Public Advocate was monitored until April 6, 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 Public Advocate submitted a copy of a memorandum to staff dated April 7, 2021, which recognized the EEPC's audit and reiterated commitment to the Office of the New York City Public Advocate's equal employment practices; Now Therefore,

**Be It Resolved**, that the Office of the New York City Public Advocate 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 Public Advocate Jumaane Williams of the Office of the New York City Public Advocate.

Approved unanimously on April 22, 2021.

/s/Angela Cabrera

**Angela Cabrera**  
Commissioner/Mayoral Appointee

/s/Elaine S. Reiss

**Elaine S. Reiss, Esq.**  
Commissioner/Mayoral Appointee

/s/Arva R. Rice

**Arva R. Rice**  
Commissioner/City Council Appointee

Vacant

**Vacant**  
Commissioner/City Council Appointee

Vacant

**Vacant**  
Chair/Commissioner/Joint Appointee

On behalf of all Commissioners in attendance,

  
Jeanne M. Victor  
**Jeanne M. Victor**  
Executive Director



This

# Determination of Compliance

is hereby issued to

## Office of the New York City Public Advocate

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*for successful implementation of 29 of 29 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 22<sup>nd</sup> day of April in the year 2021,

A handwritten signature in cursive script that reads "Jeanne M. Victor".

Jeanne M. Victor, Executive Director

*In care of Public Advocate Jumaane Williams  
and principal EEO Professional Teisha Stallings*