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

Dear District Attorney Clark:

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 Bronx County District Attorney'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 Bronx County District Attorney, 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 entities¹ 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 Bronx County District Attorney on January 3, 2020; the completed PIQ(s) were returned on January 29, 2020, February 7, 2020, February 8, 2020 and February 10, 2020. Partial documentation was attached. Additional requests for information were made on June 22, 2020.

The following determination indicates where the Office of the Bronx County District Attorney has or has not complied, in whole or in part, with the established Standards.

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

Description of the Agency

District Attorneys are public law enforcement officers, under the New York State Constitution, Article 13, Section 13, elected every four (4) years in each county. New York County Law, Article 18, Section 700 vests the District Attorney with the powers and duties to prosecute all crimes and offenses in the county in which he or she is elected and to assist district attorneys of other counties in these endeavors. District Attorneys also provide services to crime victims, witnesses, and other persons involved in the criminal justice system, support crime prevention programs, and appoint or employ persons to positions within their offices for the performance of these duties.

District Attorneys of the five (5) New York City counties have the same general powers and duties as District Attorneys throughout the State, with provisions applicable to the five (5) New York City counties, including but not limited to Section 931 of Article 24, New York County Law, which confers on the New York City Mayor the authority to increase or decrease the positions, salaries and compensation of positions within the Office of the District Attorney with the District Attorney's consent. The work of the District Attorney's Office is handled by two principal divisions: Investigations and Trial. Additional specialized legal bureaus and units, including those dealing with special victims, work alongside these divisions to advance the Office's objectives. (4/2019) At the end of the period in review, the CEEDS Report: *Work Force Composition Summary* for the Office of the Bronx County District Attorney (BXDA), attached as Appendix 1, indicated that the agency's headcount was 1,061.

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 partial-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 entity issued its *Policy Statement on Sexual Harassment* within the *Office of the Bronx County District Attorney Equal Employment Opportunity Program with Sexual Harassment and Reasonable Accommodation Policy Statements* (hereinafter referred to as the EEO Policy) which was updated in November 2018, September 2019 and December 2019. (EEO Policy versions issued during the period in review are attached as Appendices 2, 3 and 4, respectively.) The *Policy Statement on Sexual Harassment* reaffirmed the entity's commitment to the prevention of sexual harassment by stating "[s]exual harassment in the workplace is a form of employment discrimination prohibited by law...It is the policy of the Bronx County District Attorney's Office to prohibit all forms of sexual harassment to employees. Such conduct may result in disciplinary action up to and including termination. This policy shall pertain to all employees." The entity reported in response to the EEPC's PIQs that the *Policy Statement on Sexual Harassment* was distributed to new employees during the onboarding process within the *Support Staff Procedural Manual*; and was accessible to all employees via its posting to the entity's intranet site.

- The entity did not demonstrate that during the period in review the *Policy Statement on Sexual Harassment*, or another Policy Statement or memorandum that reiterated commitment to the prevention of sexual harassment, was distributed or otherwise made available to employees. **Corrective Action Required.**

NOTE: Screenshots of the entity's employee intranet dated January 29, 2020 appear to indicate the posting of the EEO Policy, which contained the *Policy Statement on Sexual Harassment*. However, the entity did not demonstrate how employees were made aware of the document's posting and availability.

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.

✓ In November 2018, September 2019 and December 2019, the entity issued and updated its EEO Policy. The EEO Policy contained procedures and responsibilities for the investigation of sexual harassment and discrimination complaints in sections entitled *Complaint Procedures*, *Staff and Responsibilities*, and *Policy Statement and Procedure on Reasonable Accommodations*; and outlined the entity's policy against sexual harassment in the section entitled *Policy Statement on Sexual Harassment*. The EEO Policy identified the previous principal EEO Professional by name and EEO title, and contained names and contact information (office title, office location, and phone number) for the entity's EEO Coordinators (including the interim principal EEO Professional); and contact information (office address and telephone number) for the federal, state and local agencies that enforce laws against discrimination and sexual harassment.

Representative orientation training agendas from September 2018, January 2019 and September 2019 indicated a fifteen to twenty minute training session for newly hired employees was presented by the principal EEO Professional entitled "*EEO Policies and Procedures[.]*" The entity reported that during orientation trainings the principal EEO Professional reviewed the EEO Policy and notified new employees of the EEO Policy's location on the intranet. A representative *Human Resources Department* acknowledgement receipt indicated that new employees must sign to confirm the receipt of an *Administration/Support Staff Procedural Manual*, which the agency reported contained the EEO Policy.

- The entity did not demonstrate that the EEO Policy was distributed to all employees and posted in a manner which was accessible to all BXDA employees during the period in review. The EEO Policy did not include, or attach as addenda uniform and responsive procedures for investigating discrimination/sexual harassment complaints. Specifically, the complaint investigation procedures within the EEO Policy did not include requirements to: provide the option for complainants to file a complaint anonymously; notify the respondent of the right to respond to the allegations and right

to be accompanied by a representative of his/her choice, and to maintain documentation regarding the service of notice on the respondent in the complaint file; issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn, or resolved by agreement of the parties or EEO Office; take thorough notes of words spoken and facts provided and include them in each complaint file; issue a conclusive confidential report within 90 days of the date the complaint was filed; notify the complainant and respondent of a delay where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, and contain in the complaint file the reason for the delay and a projected time frame for completion of the report; 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 District Attorney's Review; establish and implement a policy whereby the District Attorney (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; inform each complainant and respondent in writing of the conclusion and outcome of their complaint investigation; contain in each internal discrimination complaint file a written determination of its outcome and corrective action(s) taken as a result; and notify in writing each complainant and respondent when the investigation by the principal EEO professional had been transferred because of the filing of an external complaint. In addition, the office address listed in the EEO Policy for the New York City Commission on Human Rights is incorrect. **Corrective Action Required.**

NOTE: Screenshots of the entity's employee intranet dated January 29, 2020 appear to indicate the posting of the EEO Policy, which contained the *Policy Statement on Sexual Harassment*. In the screenshots, the text "EEO Policy (12/2019)" appears below an illegible image that seems to be the EEO Policy cover page.

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 partial-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 *Policy Statement on Sexual Harassment* stated, "[t]he District Attorney provides mandatory training to all staff to familiarize them with the guidelines of this policy statement so that they will understand what type of conduct is prohibited and know the remedies available to anyone who has

experienced sexual harassment or any form of discrimination.” On July 18 and August 22, 2018, the principal EEO Professional notified all staff via email that completion of the Department of Citywide Administrative Services (DCAS) training entitled *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* was mandatory, and that a link to the training was provided separately. On June 28, 2019 the principal EEO Professional notified all staff via email of mandatory *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* training. The email provided training access instructions and contained a definition of sexual harassment and instruction on how to file a sexual harassment complaint. In addition, representative *Orientation Training Program* agendas from the period in review indicated that new employees were to receive a fifteen to twenty minute *EEO Policy and Procedures* training session with the principal EEO Professional, and which the entity reported included a review of the EEO Policy.

A training completion dashboard, prepared by DCAS, and described as “*the Sexual Harassment Prevention final dashboard for cycle one, ending on Aug 31st 2019 for your agency*” reported that 774 employees (approximately 73% of the workforce headcount at the end of the period in review) completed sexual harassment prevention training. (DCAS also reported an adjusted completion rate of 73% after using the workforce headcount as of December 31, 2018, and adjusting for employees on leave and who separated between December 31, 2018 and August 31, 2019.)

- The entity did not implement its training plan to ensure that all individuals who work within the entity, 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: The entity reported internal and external complaints were filed during the period in review, however a summary of all complaint activity was not provided. In addition, the entity provided summaries for five (5) complaints in response to the EEP’s request for copies of the last five (5) completed internal complaint investigation files from the period in review. No complaint files were provided.

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that each complaint file contained a completed Complaint Intake Form or written complaint that captured facts (including pertinent dates) that

identify the respondent(s) with reasonable specificity and provided the essence of the circumstances which gave rise to the complaint. **Corrective Action Required.**

NOTE: In response to the EEPD's PIQs, the entity provided a blank complaint intake form entitled, *Complaint of Discrimination* which contained the following fields to capture facts: "[w]hat is the alleged basis of discrimination?", "[w]hen/where did the alleged discrimination occur?", and "[p]lease give the name, title and division of the person(s) you believe discriminated against you."

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.

- The entity did not demonstrate that employees were provided with the option to file a complaint anonymously. **Corrective Action Required.**

NOTE: The entity provided a complaint summary of the last five (5) complaints where it reported a complaint was filed anonymously, however it was not clear if the option to file an anonymous complaint was available or communicated to all employees. The complaint investigation procedures within the EEO Policy did not provide the option to file a complaint anonymously. (See §1.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that during the period in review each respondent was served with a notice of complaint that included the respondent's right to respond to the allegations and right to be accompanied by a representative of his/her choice and that each service of notice was maintained in the corresponding complaint file. **Corrective Action Required.**

NOTE: The *Complaint Procedures* section of the EEO Policy stated, "[notify] the respondent in writing that a complaint has been filed[,]" however the complaint investigation procedures within the EEO Policy did not specify that the respondent be served 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. (See §1.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that written confirmation was issued or maintained when an internal complaint/mediation was terminated, withdrawn, or resolved by agreement of the parties or EEO Office. **Corrective Action Required.**

NOTE: The *Complaint Procedures* section of the EEO Policy stated “if there is not reasonable cause to believe discriminatory conduct exists or has existed, the case will be dismissed and closed. The complainant will be informed in writing of the disposition of the case[.]” However, the complaint investigation procedures within the EEO Policy did not specify that written confirmation be issued and maintained when an internal complaint/mediation was terminated, withdrawn or resolved by agreement of the parties or EEO Office. (See §I.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that thorough notes of words spoken and facts provided were taken during each interview and included in each complaint file. **Corrective Action Required.**

NOTE: The *Complaint Procedures* section of the EEO Policy indicated that the EEO Coordinator should conduct interviews with “*cited witnesses*” however, the complaint investigation procedures within the EEO Policy did not require that thorough notes be taken of words spoken and facts provided during each interview and included in each complaint file. (See §I.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that conclusive reports were issued within 90 days of the dates in which the complaints were filed and that complaint investigations commenced immediately if allegations raised sufficiently warranted an investigation. **Corrective Action Required.**

NOTE: The complaint investigation procedures within the EEO Policy established that the EEO Coordinator conducting the investigation must prepare and submit to the principal EEO Professional a detailed confidential report on the findings of the investigation within twenty-five (25) days from when a formal complaint was filed. The *Complaint Procedures* section of the EEO Policy detailed, “[an]... *initial conference will be held, if possible, within five days after receipt of the complaint...In the event an initial attempt at a resolution fails, an official inquiry shall be immediately commenced by the EEO Coordinator, the EEO Coordinator has ten business days in which to complete the inquiry. An inquiry will consist of clarifying the complainant’s report, notifying the respondent in writing that a complaint has been filed, interviews with cited witnesses and any member of the Office who may have relevant data or information. The EEO Coordinator will have an additional five business days to prepare and submit a written report of the findings to the complainant and respondent, as well as prepare and submit a detailed report of the findings to the EEO Officer with recommendations for correcting or remedying any substantiated acts of discrimination.*” The *Staff and Responsibilities* section of the EEO Policy established that “[EEO] Coordinators... are required to: ... *Prepare confidential reports on the nature of any such complaints and submit them to the EEO Officer who in turn will submit them to District Attorney for decision.*”

The complaint investigation procedures within the EEO Policy suggest but did not indicate that the detailed report submitted to the principal EEO Professional was the final conclusive report for a complaint investigation. The complaint investigation procedures within the EEO Policy did not include requirements to issue a conclusive report within 90 days of the date the complaint was filed and to commence an investigation immediately if allegations raised sufficiently warranted an investigation. (See §1.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that when a complaint investigation could not commence immediately, or where a conclusive report could not be issued within 90 days, each complainant and respondent was notified of the delay, and the reason for the delay and a projected time frame for completion of the report were specified in the complaint file. **Corrective Action Required.**

NOTE: The entity’s complaint investigation procedures within the EEO Policy did not include a requirement that in rare circumstances where a complaint investigation could not commence

immediately, or where a conclusive report cannot be issued within 90 days, each complainant and respondent was notified of the delay, and the complaint file specified the reason for the delay and a projected time frame for completion of the report. (See §I.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that at the end of each complaint investigation a conclusive confidential report was generated, which included a summary of allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, a recommendation and documentation of the Agency Head's Review. **Corrective Action Required.**

NOTE: The *Complaint Procedures* section of the EEO Policy stated, “[t]he EEO Coordinator will ... prepare and submit a detailed report of [complaint investigation] findings to the EEO Officer with recommendations for correcting or remedying any substantiated acts of discrimination” and “[t]he EEO Officer will discuss the complaint with the District Attorney [Agency Head] and the Chief Assistant District Attorney and/or Chief of Staff.” The *Staff and Responsibilities* section of the EEO Policy also detailed that “[EEO] Coordinators ... are required to: ... make recommendations as to the resolution of any problems that may arise” and “[p]repare confidential reports on the nature of any such complaints and submit them to the EEO Officer who in turn will submit them to District Attorney for decision.”

The complaint investigation procedures within the EEO Policy suggest but did not indicate that the EEO Coordinator's written report of the complaint investigation findings were to be the conclusive report. The complaint investigation procedures within the EEO Policy did not include a requirement to generate at the end of each complaint investigation a conclusive confidential report, which includes a summary of 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 District Attorney's Review. (See §I.2 for associated corrective action).

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 entity did not demonstrate that during the period in review, complaint files were maintained in a secure area and accessible to the District Attorney, General Counsel, and other appropriate staff identified by the District Attorney for review. **Corrective Action Required.**

NOTE: The *Complaint Procedures* section of the EEO Policy, stated that “[e]very effort will be made to ensure the confidentiality of these [complaint investigation] proceedings as well as any records of the proceedings that may be produced.” The entity, however, did not respond to the relevant portion of the PIQs or provide information to clarify in what format the complaint files were maintained, where and how the complaint files were securely located, and how appropriate staff had access to the complaint files.

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 entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that the District Attorney (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. **Corrective Action Required.**

NOTE: The complaint investigation procedures within the EEO Policy assigned the EEO Coordinator the responsibility to conduct the initial complaint investigation, compile a confidential investigation report, and submit the investigation report to the principal EEO Professional.² The *Complaint Procedures* section of the EEO Policy stated that the “*EEO Officer [principal EEO Professional] will discuss with the District Attorney and Chief Assistant District Attorney and/or Chief of Staff*” and “[t]he District Attorney is the final arbitrator of any dispute or disciplinary action.” The complaint investigation procedures do not indicate, and the entity did not otherwise establish and implement a policy whereby the District Attorney (or an approved direct report other than the General Counsel) reviewed the principal

² The *Staff and Responsibilities* section of the EEO Policy established that “[EEO] Coordinators ... are required to: ...5. Report directly to the [principal EEO Professional] and to make recommendations as to the resolution of any problems that may arise. 6. Prepare confidential reports on the nature of any such complaints and submit them to the EEO Officer who in turn, will submit them to District Attorney for decision.”

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. (See §I.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that each complainant and respondent was informed of the conclusion and outcome of their complaint investigation in writing as part of the entity's complaint procedure. **Corrective Action Required.**

NOTE: The *Complaint Procedures* section of the EEO Policy stated, “[i]f it is found there is not reasonable cause to believe discriminatory conduct exists or has existed, the case will be dismissed and closed. The complainant will be notified in writing of the disposition of the case and advised of their rights to obtain an attorney privately or to file a formal complaint with the [federal, state and local] agencies listed below[.]” The complaint investigation procedures within the EEO Policy did not require that each complainant and respondent be informed in writing of the conclusion and outcome of their complaint investigation. (See §I.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that each internal discrimination complaint file contained a written determination of its outcome and corrective action(s) taken as a result. **Corrective Action Required.**

NOTE: The complaint investigation procedures within the EEO Policy did not include the requirement that each internal discrimination complaint file contain a written determination of its outcome and corrective action(s) taken as a result. (See §I.2 for associated corrective action).

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.

- The entity reported there were complaints during the period in review, however no complaint files were provided. The entity did not demonstrate that each complainant and respondent was notified in writing when the investigation by the EEO professional was transferred because of the filing of an external complaint. **Corrective Action Required.**

NOTE: The complaint investigation procedures within the entity's EEO Policy did not include a requirement to notify the complainant and respondent in writing when the investigation by the EEO professional had been transferred because of the filing of an external complaint. (See §1.2 for associated corrective action).

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 entity did not demonstrate that it established a complaint tracking and monitoring system that permitted the entity to identify and capture 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.**

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 entity did not demonstrate that the General Counsel: assisted the entity 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 were brought against the entity; 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 entity reported that during the period in review, the principal EEO Professional, HR Professional, and General Counsel did not conduct annual reviews of the number of sexual harassment complaints and entity's employment practices, policies and programs to identify whether there were barriers to employment opportunities that may be related to sexual harassment, and determine what, if any actions were required to correct deficiencies. **Corrective Action Required.**

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 partial-compliance with the standards for this subject area.

20. Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the

requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

✓ The principal EEO Professional at the beginning of the period in review served until December 2019. A certificate of completion from the DCAS *Diversity and Equal Employment Opportunity Basic Training* (October 2016) and emails regarding attendance at DCAS' *EEO Essential Training for New Personnel* (November 2019) confirmed the principal EEO Professional was trained regarding city, state, federal EEO laws; the requirements of the entity's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints. In addition, certificates of completion indicate the principal EEO Professional completed DCAS *Coaching Employees* (December 2016) and *Sexual Harassment Prevention* (August 2018) trainings, and a completed training application suggests that the principal EEO Professional was registered for and attended the DCAS course *EEO Train the Trainer* (September 2018). The entity reported the principal EEO Professional's attendance and provided presentation cover pages and agendas from the following DCAS *Best Practices* meetings: *Citywide Agency Personnel Officers' & Best Practices Meeting* (December 2018), *Best Practices Meeting Human Capital* (January 2019), *Best Practices Meeting Human Capital/OCEI* (February 2019), *Best Practices Meeting* (May 2019), and *EEO Best Practices Meeting* (June 2019, July 2019, August 2019, and September 2019). Training slides and dated agendas from multiple DCAS *Best Practices* meetings from the period in review indicated that the principal EEO Professional received continuing education guidance on EEO matters, including how City agencies can maintain their EEO requirements under city, state and federal EEO laws, policies and procedures. In December 2019, the interim principal EEO Professional was appointed.

➤ The entity did not demonstrate that the interim principal EEO Professional was trained regarding city, state, federal EEO laws; the requirements of the entity's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints. **Corrective Action Required.**

NOTE: The interim principal EEO Professional served until the May 2020 appointment of the current principal EEO Professional. Training materials and an attendance roster from a 3-hour *OCEI EEO Essentials Training Webinar* on June 26, 2020 demonstrate that the current principal EEO Professional was trained regarding city, state, federal EEO laws; the requirements of the entity's EEO policies, and 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.

✓ During the period in review, the principal EEO Professional was provided opportunities for continuing education and professional development and had nine (9) EEO Coordinators as support staff to meet EEO obligations and competently discharge their responsibilities. (See §V.20 for details regarding the principal EEO Professional's continuing education and professional development training).

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.

✓ At the end of the period in review, the entity had 1,061 employees at three (3) office locations, which were served by the principal EEO Professional and nine (9) EEO Coordinators. The contact information located within the EEO Policy indicated that the EEO Coordinators were located across multiple buildings and levels within the entity. The complaint investigation procedures within the EEO Policy outlined the responsibilities of EEO Coordinators, which included EEO complaint intake and investigation.

➤ The entity did not demonstrate that its EEO Coordinators were trained in EEO laws and procedures, and their responsibilities under the EEO Policy. **Corrective Action Required.**

Corrective Action #20: 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 entity 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 #21: 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 *Staff and Responsibilities* section of the EEO Policy stated that the principal EEO Professional “has [the] overall responsibility for the collaboration, development and monitoring of the Equal Employment Opportunity Program, and will work with Office managerial and supervisory personnel on the program.” The *Staff and Responsibilities* section of the EEO Policy also established that the principal EEO Professional was responsible for supervising the activities of EEO professionals, by stating “[EEO] Coordinators ... are required to: ... Report directly to the [principal EEO Professional] and to make recommendations as to the resolution of any problems that may arise.” The *Policy Statement on Sexual Harassment* indicated that “[t]he District Attorney provides mandatory training to all staff to familiarize them with the guidelines of this policy statement[;]” and in 2018 and 2019, the principal EEO Professional demonstrated the responsibility to ensure that employees and managers received sexual harassment prevention training via email notice to complete mandatory sexual harassment prevention trainings. The June 28, 2019 sexual harassment prevention training email included a section entitled *How To Report Sexual Harassment* which provided guidance to managers, supervisors and human resources professionals on issues pertaining to sexual harassment by stating “[a] supervisor or manager or human resource personnel must promptly notify their agency’s EEO Officer and document in writing, either by e-mail or memorandum, if they receive a complaint alleging sexual harassment or if they observe, learn about, or suspect that any violation of the Policy has occurred. Managers and supervisors should encourage subordinates to consult with the EEO Officer.” The complaint investigation procedures within the EEO Policy established the EEO Coordinator’s responsibility to promptly investigate allegations of sexual harassment by stating “[a]ny employee who has a complaint about sexual harassment or any form of non-compliance with our Equal Employment Opportunity Program should contact an EEO Coordinator” who will “discuss with the complainant the specific allegations of the alleged discriminatory practice(s) ... if possible, within five days after receipt of the complaint ... to determine if the matter can be resolved without further administrative action. In the event an initial attempt at resolution fails, an official inquiry shall be immediately commenced by the EEO Coordinator.”

➤ The entity did not demonstrate that the principal EEO Professional (or EEO-related designee) was assigned the responsibility to ensure that: the policies and complaint procedures against sexual harassment were distributed/posted at all entity locations; and EEO policies were available or could be made available in alternative formats (i.e., large print, audio recording and/or Braille) upon request. **Corrective Action Required.**

Corrective Action #22: 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 organizational chart provided by the entity illustrated that the principal EEO Professional did not have a reporting relationship to the agency head and reported directly to the General Counsel. **Corrective Action Required.**

Corrective Action #23: 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.

✓ *EEO Staff Meeting Agenda[s]* dated January 14, 2019 and April 25, 2019 indicated that the principal EEO Professional and agency head were to have met on at least two occasions during the period in review; including once to discuss “I. Underutilization Statistics, II. Staff Numbers, III. Legal Staff Management Numbers by Gender and Ethnicity, IV. Legal Update, and V. Reasonable Accommodation Overview.” Each agenda stated in the meeting’s *Purpose* section that “[i]t is critical that the entire staff not only receive EEO information but are also provided instruction and guidance from the leadership team to enhance their understanding and accountability.”

- The entity did not demonstrate that during the period in review, documentation was maintained 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 #24: 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 partial-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 expectation that managers and supervisors were held accountable for enforcing the entity’s sexual harassment prevention policies and complaint procedures was documented in the *Policy Statement on Sexual Harassment* within the EEO Policy which stated, “[f]urthermore, any manager or supervisor who knows of a sexually intimidating or hostile work environment or who becomes aware that the terms and conditions of an individual’s employment are based upon submission to sexual conduct should immediately consult a member of the Executive Staff or one of the EEO Coordinators.”

- The entity did not demonstrate its implementation of the expectation that managers and supervisors be held accountable for enforcing the entity's sexual harassment prevention policies and complaint procedures. **Corrective Action Required.**

Corrective Action #25: 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 entity 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 that others in an equitable and impartial manner). **Corrective Action Required.**

Corrective Action #26: 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 entity did not submit for the period in review, Annual Plans of measures or programs to provide equal employment opportunity. **Corrective Action Required.**

Corrective Action #27: 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 Bronx County District Attorney has 28 required corrective action(s) at this time. This includes the aforementioned final action.

Conclusion

Pursuant to Charter Chapter 36, the Office of the Bronx County District Attorney 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 Bronx County District Attorney'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 Bronx County District Attorney's implementation of the prescribed corrective action(s).

(No Response Option) If the Office of the Bronx County District Attorney 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 Bronx County District Attorney 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,

A handwritten signature in cursive script that reads "Samantha Tarallo". The signature is written in black ink and is positioned above a horizontal line.

Samantha Tarallo, EEO Program Analyst

Approved by,



Charise L. Terry
Executive Director

c: Ricardo Granderson, Principal EEO Professional, Office of the Bronx County District Attorney
William B. Peterson, Manager, Labor Relations Analysis and Audit, EEPC

Appendix – 1

Office of the Bronx County District Attorney

CEEDS Report: *Work Force Composition Summary*

2nd Quarter of Fiscal Year 2020
(End of Audit Period)

RUN DATE: 01/03/20
 RUN TIME: 13:44:07.0

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
 WORK FORCE COMPOSITION SUMMARY
 AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

PAGE: 275
 REPORT: EBEP210

QUARTER 2 YEAR 2020

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 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
10001	ADMINISTRATIVE ACCOUNTANT	1	0	0	0	0	0	0	0	0	0	0	0	0	1
10022	ADMINISTRATIVE COMMUNITY R	0	0	0	0	0	0	0	2	0	0	0	0	0	2
10135	ADMINISTRATIVE CHIEF	1	0	0	2	0	0	0	0	1	0	0	0	0	4
12632	SPECIAL ASSISTANT TO THE D	1	1	1	0	0	0	1	0	0	0	0	0	0	4
30114	ASSISTANT DISTRICT ATTORNE	159	16	24	14	0	7	169	36	33	27	1	10	0	496
30856	PRINCIPAL ACCOUNTANT INVES	1	0	1	0	0	0	1	0	0	0	0	0	0	3
60801	DIRECTOR OF PUBLIC INFORMA	0	0	0	0	0	0	1	0	0	0	0	0	0	1
82950	AGENCY CHIEF CONTRACTING O	1	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		164	17	26	16	0	7	172	36	35	28	1	10	0	512
		32.02	3.32	5.08	3.13	0.00	1.37	33.59	7.03	6.84	5.47	0.20	1.95	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 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
05322	SENIOR RACKETS INVESTIGATO	10	1	7	1	0	0	1	1	1	0	0	0	0	22
05323	SUPERVISING RACKETS INVEST	0	0	1	0	0	0	0	0	1	0	0	0	0	2
1002C	ADMINISTRATIVE MANAGER NON	0	0	0	0	0	0	1	1	0	0	0	0	0	2
1002D	ADMINISTRATIVE STAFF ANALY	1	0	0	0	0	0	0	0	0	0	0	0	0	1
12158	PROCUREMENT ANALYST	0	0	1	0	0	0	0	0	0	0	0	0	0	1
40502	MANAGEMENT AUDITOR	0	0	0	0	0	0	0	0	1	0	0	0	0	1
40523	CITY TAX AUDITOR	0	0	1	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		11	1	10	1	0	0	2	2	3	0	0	0	0	30
		36.67	3.33	33.33	3.33	0.00	0.00	6.67	6.67	10.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 EEO JOB GROUP : 004 SCIENCE PROFESSIONALS

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
13611	COMPUTER ASSOCIATE (TECHNI	0	1	0	0	0	0	0	0	0	0	0	0	0	1
13631	COMPUTER ASSOCIATE (SOFTWA	1	0	0	1	1	0	0	0	0	0	0	0	0	3
13643	CERTIFIED IT DEVELOPER (AP	0	0	0	1	0	0	0	0	0	1	0	0	0	2
13644	CERTIFIED IT ADMINISTRATOR	0	0	0	1	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		1	1	0	3	1	0	0	0	0	1	0	0	0	7
		14.27	14.29	0.00	42.86	14.29	0.00	0.00	0.00	0.00	14.29	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY

RUN DATE: 01/03/20
 RUN TIME: 13:44:07.0

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
 WORK FORCE COMPOSITION SUMMARY
 QUARTER 2 YEAR 2020 AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

PAGE: 276
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EEO JOB GROUP : 008 LAWYERS

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			
94353	DISTRICT ATTORNEY	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		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	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 EEO JOB GROUP : 009 PUBLIC RELATIONS

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			
31013	INTERPRETER (SPANISH)	0	0	1	0	0	0	0	0	7	0	0	0	0	0	8
EEO JOB GROUP TOTAL.....:		0.00	0.00	12.50	0.00	0.00	0.00	0.00	0.00	87.50	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 EEO JOB GROUP : 010 TECHNICIANS

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			
30080	PARALEGAL AIDE	0	1	0	0	0	0	1	0	0	0	0	0	0	0	2
90622	MEDIA SERVICES TECHNICIAN	0	0	2	0	0	0	0	0	0	0	0	0	0	0	2
EEO JOB GROUP TOTAL.....:		0.00	25.00	50.00	0.00	0.00	0.00	25.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 EEO JOB GROUP : 012 CLERICAL SUPERVISORS

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			
10124	PRINCIPAL ADMINISTRATIVE A	2	0	0	0	0	0	1	3	4	0	0	0	0	0	10
EEO JOB GROUP TOTAL.....:		20.00	0.00	0.00	0.00	0.00	0.00	10.00	30.00	40.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 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		

RUN DATE: 01/03/20
 RUN TIME: 13:44:07.0

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
 CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
 WORK FORCE COMPOSITION SUMMARY

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QUARTER 2 YEAR 2020 AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

10202 PRIVATE SECRETARY	0	0	0	0	0	0	0	0	1	0	0	0	0	1
10212 REPORTER/STENOGRAPHER (DA)	2	0	0	0	0	0	9	6	2	0	0	0	0	19
10251 CLERICAL ASSOCIATE	0	3	4	0	0	0	1	9	20	0	0	0	0	37
10252 SECRETARY	0	0	0	0	0	0	0	4	1	0	0	0	0	5
EEO JOB GROUP TOTAL.....:	2	3	4	0	0	0	10	19	24	0	0	0	0	62
	3.22	4.84	6.45	0.00	0.00	0.00	16.13	30.65	38.71	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 EEO JOB GROUP : 015 POLICE SUPERVISORS

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		
06733	DEPUTY CHIEF RACKETS INVES	1	0	0	0	0	0	0	0	0	0	0	0	0	1
30832	SUPERVISING RACKETS INVEST	2	1	0	0	0	0	0	0	0	0	0	0	3	
30836	CHIEF RACKETS INVESTIGATOR	1	0	0	0	0	0	0	0	0	0	0	0	1	
EEO JOB GROUP TOTAL.....:		4	1	0	0	0	0	0	0	0	0	0	0	5	
		80.00	20.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00	

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 EEO JOB GROUP : 018 POLICE

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		
30830	RACKETS INVESTIGATOR	4	2	2	2	0	0	0	1	3	0	0	0	14	
70810	SPECIAL OFFICER	0	1	2	0	0	0	1	2	1	0	0	0	7	
EEO JOB GROUP TOTAL.....:		4	3	4	2	0	0	1	3	4	0	0	0	21	
		19.04	14.29	19.05	9.52	0.00	0.00	4.76	14.29	19.05	0.00	0.00	0.00	100.00	

AGENCY CODE : 902 DISTRICT ATTORNEY-BRONX COUNTY
 EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

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		
52406	COMMUNITY SERVICE AIDE	0	2	1	0	0	0	0	1	1	0	0	0	5	
56056	COMMUNITY ASSISTANT	4	31	21	0	0	1	6	48	36	1	1	6	155	
56057	COMMUNITY ASSOCIATE	8	18	35	2	0	1	9	49	64	4	1	3	194	
56058	COMMUNITY COORDINATOR	6	4	1	0	0	0	3	10	21	1	0	1	47	
EEO JOB GROUP TOTAL.....:		18	55	58	2	0	2	18	108	122	6	2	10	401	
		4.49	13.72	14.46	0.50	0.00	0.50	4.49	26.93	30.42	1.50	0.50	2.49	100.00	

RUN DATE: 01/03/20
RUN TIME: 13:44:07.0

NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
CITYWIDE EQUAL EMPLOYMENT DATABASE SYSTEM (CEEDS)
WORK FORCE COMPOSITION SUMMARY
AGENCY 902 DISTRICT ATTORNEY-BRONX COUNTY

PAGE: 278
REPORT: EBEP210

QUARTER 2 YEAR 2020

AGENCY TOTAL.....:	206	82	105	24	1	9	205	172	199	35	3	20	0	1061
	19.41	7.73	9.90	2.26	0.09	0.85	19.32	16.21	18.76	3.30	0.28	1.89	0.00	100.00

Appendix – 2

Office of the Bronx County District Attorney

*Office of the Bronx County District Attorney Equal Employment Opportunity
Program with Sexual Harassment and Reasonable Accommodation Policy
Statements,*

November 2018

**OFFICE OF THE DISTRICT ATTORNEY
BRONX COUNTY**

**EQUAL EMPLOYMENT
OPPORTUNITY PROGRAM
WITH
SEXUAL HARASSMENT
AND
REASONABLE ACCOMMODATIONS
POLICY STATEMENTS**



**DARCEL D. CLARK
DISTRICT ATTORNEY**

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

The Bronx District Attorney's Office is and will continue to be an equal opportunity employer. Every actual and qualified prospective employee will be considered for recruitment, selection, hiring, work assignment, transfer, training, evaluation, promotion, wages, benefits, discipline, and separation without regard to the employee's age, race, color, religion/creed, national origin, gender (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status*, arrest or conviction record**, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history.

It is the policy of this Office to liberally grant employment interviews to those seeking employment with this agency. It is also our policy to actively seek applications for employment from persons of all genders (including gender identity, expression, and transgender status), races, and sexual orientations, as well as persons with disabilities. Members of the staff are encouraged to refer individuals they believe to be qualified for employment to Human Resources and Legal Recruitment.

Selection criteria for promotion will depend upon the specific position to be filled. The basic criteria for all positions will be based upon merit as demonstrated by prior performance. In addition to Civil Service rules, selection criteria will also include: experience, knowledge, productivity, initiative, responsibility, dependability, supervisor evaluations and the needs of the Office.

*For certain positions, including that of Assistant District Attorney, there are statutory legal qualifications, such as citizenship.

**For certain positions, including that of rackets investigator and detective investigator, there are statutory provisions concerning a record of arrest or conviction which may affect employment.

Salary increases for support staff are essentially not in the control of the District Attorney. General increases are granted whenever the Mayor and the City Council provide for such increases. However, individual increases in compensation can occasionally be granted based upon merit. Collective bargaining agreements for unionized employees are implemented as soon as effective.

Training programs are available to all employees. Employees are encouraged to increase their knowledge and improve their skills. The Office will continue to offer periodic training sessions concerned with all aspects of the work of the District Attorney's Office.

If an employee believes that regulations described above do not promote equal opportunity, or that these rules and regulations are not applied equally, or wishes to suggest changes in the regulations in order to promote greater equality of opportunity, he or she should present that view to the EEO Officer, either through their supervisor or directly to management.

Policy Statement on Sexual Harassment

Our EEO policy states:

“The District Attorney is committed to ensuring that no one will be discriminated against for reasons of age, race, color, religion/creed, national origin, gender (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history. This policy is an integral part of every aspect of personnel policy and practice in employment, development, advancement or treatment of all employees.”

Sexual harassment in the workplace is a form of employment discrimination prohibited by law. The District Attorney provides mandatory training to all staff to familiarize them with the guidelines in this policy statement so that they will understand what type of conduct is prohibited and know the remedies available to anyone who has experienced sexual harassment or any other form of discrimination.

Guidelines issued by the United States Equal Employment Opportunity Commission identify sexual harassment as an unlawful employment practice and defines this illegal practice as:

"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1) Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
or
- 3) Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment."

These guidelines are not meant to interfere with purely voluntary social interaction between individuals. However, all employees should be aware that there is a broad range of conduct by supervisors and co-workers which can, in certain circumstances, be considered sexual harassment. This includes, but is not limited to, sexually suggestive remarks, the display of sexually suggestive pictures, sexually suggestive gestures, verbal harassment or abuse of a sexual nature, subtle or direct propositions for sexual favors, and various forms of unwelcome physical contact.

It is the policy of the Bronx County District Attorney's Office to prohibit all forms of sexual harassment of employees. Such conduct may result in disciplinary action up to and including termination. This policy shall pertain to all employees.

Furthermore, any manager or supervisor who knows of a sexually intimidating or hostile work environment or who becomes aware that the terms and conditions of an individual's employment are based upon submission to sexual conduct should immediately consult a member of the Executive Staff or one of the EEO Coordinators.

Policy Statement and Procedure on Reasonable Accommodations

The Bronx District Attorney's Office will make reasonable accommodations to qualified employees and applicants with disabilities, unless providing such accommodations would create undue hardship for the Office. Whether an accommodation is reasonable generally depends upon all of the circumstances of each situation. Some examples of accommodations which have been found reasonable for certain employers, under certain circumstances, include: job restructuring; making facilities physically accessible to and usable by persons with disabilities; modifying work schedules; providing or modifying equipment or devices; and providing auxiliary aides and services. Staff with disabilities requesting reasonable accommodations to perform essential job functions must discuss their needs with their direct supervisor, who in turn should notify Cicely Harris, EEO Officer. Ms. Harris will provide the supervisor with reasonable accommodation forms to be completed by the person requesting such accommodation. If a staff member feels uncomfortable discussing the need for a reasonable accommodation with his or her supervisor, the request can be submitted directly to Ms. Harris. Documentation may be required to fully assess the request.

Any employee who has a complaint about sexual harassment or any form of non-compliance with our Equal Employment Opportunity Program should contact an EEO Coordinator. All complaints will be handled in confidence in that only the parties necessary to the investigation will be informed.

No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Such retaliation or harassment is unlawful

and will be cause for disciplinary action.

Every employee is entitled to meet with and file a complaint concerning equal opportunity with an EEO Coordinator. If the employee feels there is a violation of his or her rights, the preferred resolution of the problem is to discuss the problem with their immediate supervisor. If that is not satisfactory, then it should be discussed with the next level of supervisor or an EEO Coordinator.

Staff and Responsibilities

The District Attorney has designated Cicely Harris, EEO Officer, to administer this Office's EEO Program. Ms. Harris has overall responsibility for the collaboration, development and monitoring of the Equal Employment Opportunity Program, and will work with Office managerial and supervisory personnel on the program.

The District Attorney has designated the following staff as EEO Coordinators:

Mr. Rene Aponte
Bureau Chief
Complaint Room/Arraignments/DAT Unit
215 East 161st Street, Room 4-2D
718-838-6651

Mr. Rocco Galasso
Supervising Rackets Investigator
198 East 161st Street, Room 401
718-838-7625

Ms. Aisha Greene
Bureau Chief
Alternative to Incarceration
265 East 161st Street, Room 905
718-838-7568

Ms. Ellen Kolodney
Elder Abuse Coordinator
Crime Victims Assistance Unit
198 East 161st Street, Room 566
718-838-2260

Mr. Joseph Muroff
Division Chief
Child Abuse/Sex Crimes Bureau 198
East 161st Street, Room 544
718-838-2195

Mr. Orville Reynolds
Supervisor
Trial Bureau 60
198 East 161st Street, Room 758
718-838-7608

Ms. Sonya Tennell
Supervisor
Public Integrity Bureau
198 East 161st Street, Room 626
718-838-7536

Ms. Lisa Waller
Deputy Bureau Chief
Civil Litigation Bureau
215 East 161st Street, Room 3DA-05
718-590-2425

Coordinators will serve as the recipients of any EEO complaints from members of this Office. They are responsible for the Office's complaint procedures. They are required to:

1. Receive any EEO complaint that is made by a member of this Office.
2. Be familiar with anti-discrimination laws and recent court decisions and procedures, so as to be able to make a clear distinction between discriminatory activities and conduct which involves only other issues, such as labor relations.
3. Explain the complaint process to any employee having a complaint.
4. Inform any employee having a complaint of their right to file a complaint outside of the office.
5. Report directly to the EEO Officer and to make recommendations as to the resolution of any problems that may arise.
6. Prepare confidential reports on the nature of any such complaints and forward them to the District Attorney.

Complaint Procedures

Any employee of the Office of the Bronx County District Attorney who believes that he/she may have been discriminated against because of *age, race, color, religion/creed, national origin, gender* (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history in regard to the terms and conditions of recruitment, selection, hiring, work assignment, transfer, training, evaluation, promotion, wages, benefits, disciplinary action, or separation, and/or who believes that he/she has been the victim of sexual harassment may file a formal complaint.

A formal complaint can be written (Office claim forms can be utilized and obtained from EEO Coordinators) or given verbally to an EEO Coordinator. The complainant must state the problem and provide specific details, including witnesses, dates, etc. The EEO Coordinator receiving the complaint will discuss with the complainant the specific allegations of the alleged discriminatory practice(s). This initial conference will be held, if possible, within five days after receipt of the complaint. The purpose of this conference will be to determine if the matter can be resolved without further administrative action. In the event an initial attempt at a resolution fails, an official inquiry shall be immediately commenced by the EEO Coordinator.

The EEO Coordinator has ten business days in which to complete the inquiry. An inquiry will consist of clarifying the complainant's report, notifying the respondent in writing that a complaint has been filed, interviews with cited witnesses and any member of the Office who may have relevant data or information. The EEO Coordinator will then have an additional five business days to prepare and submit a written report of the findings to the complainant and respondent, as

well as prepare and submit a detailed report of the findings to the EEO Officer with recommendations for correcting or remedying any substantiated acts of discrimination. The EEO Officer will discuss the complaint with the District Attorney and the Chief Assistant District Attorney and/or the Chief of Staff. This time period may be extended at the discretion of the EEO Coordinator for good cause. This report may also request additional conferences between the most directly concerned parties to discuss the allegation and inquiry and to determine if a resolution is possible without further proceedings.

Every effort will be made to ensure the confidentiality of these proceedings as well as any records of the proceedings that may be produced.

If discriminatory conduct is found, action appropriate to the severity of the unlawful conduct will be taken against those found to have practiced such conduct. Such action may include, but is not limited to, a warning, transfer to another unit, formal disciplinary hearing, mandatory training or counseling, suspension, probation, demotion and termination.

The District Attorney is the final arbitrator of any dispute or disciplinary action.

If it is found that there is not reasonable cause to believe discriminatory conduct exists or has existed, the case will be dismissed and closed. The complainant will be informed in writing of the disposition of the case and advised of their rights to obtain an attorney privately or to file a formal complaint with the agencies listed below:

NYC Commission on Human Rights
100 Gold Street, Suite 4600
New York, NY 10038
Telephone: (212) 306-7450

New York State Division of Human Rights
Adam Clayton Powell State Office Building
163 West 125th Street, 4th Floor
New York, NY 10027
Telephone: (212) 961-8650

U.S. Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street, #1702
New York, New York 10004
Telephone: (800) 669-4000

In addition to filing with the agencies listed above, a person with a complaint alleging discrimination based on disability may file with:

United States Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section
Washington, DC 20530
Telephone: (800) 514-0301
Fax: (202) 307-1197
By email at ADA.complaint@usdoj.gov

The District Attorney is determined that no one will be discriminated against for reasons of *age, race, color, religion/creed, national origin, gender* (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history. This policy is an integral part of every aspect of personnel policy and practice in employment, development, advancement and treatment of all employees. Since unresolved problems of this nature can only create dissension and distrust, the District Attorney therefore urges any employee of this Office to seek resolution of their concerns following the designated procedures. The District Attorney will continue as the final arbitrator of any disputes within this Office.

Appendix – 3

Office of the Bronx County District Attorney

*Office of the Bronx County District Attorney Equal Employment Opportunity
Program with Sexual Harassment and Reasonable Accommodation Policy
Statements,*

September 2019

**OFFICE OF THE DISTRICT ATTORNEY
BRONX COUNTY**

**EQUAL EMPLOYMENT
OPPORTUNITY PROGRAM
WITH
SEXUAL HARASSMENT
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POLICY STATEMENTS**



**DARCEL D. CLARK
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EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

The Bronx District Attorney's Office is and will continue to be an equal opportunity employer. Every actual and qualified prospective employee will be considered for recruitment, selection, hiring, work assignment, transfer, training, evaluation, promotion, wages, benefits, discipline, and separation without regard to the employee's actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including **sexual harassment**,ⁱ pregnancy and "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, **caregiver status**,ⁱⁱ genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, unemployment status, **consumer credit history**,ⁱⁱⁱ **familial status**^{iv} **salary history**^v, and **sexual and reproductive health decisions**.^{vi}

It is the policy of this Office to liberally grant employment interviews to those seeking employment with this agency. It is also our policy to actively seek applications for employment from persons of all genders (including gender identity, expression, and transgender status), races, and sexual orientations, as well as persons with disabilities. Members of the staff are encouraged to refer individuals they believe to be qualified for employment to Human Resources and Legal Recruitment.

Selection criteria for promotion will depend upon the specific position to be filled. The basic criteria for all positions will be based upon merit as demonstrated by prior performance. In addition to Civil Service rules, selection criteria will also include: experience, knowledge, productivity, initiative, responsibility, dependability, supervisor evaluations and the needs of the Office.

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Policy Statement on Sexual Harassment

Our EEO policy states:

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development, advancement or treatment of all employees.”

Sexual harassment in the workplace is a form of employment discrimination prohibited by law. The District Attorney provides mandatory training to all staff to familiarize them with the guidelines in this policy statement so that they will understand what type of conduct is prohibited and know the remedies available to anyone who has experienced sexual harassment or any other form of discrimination.

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It is the policy of the Bronx County District Attorney's Office to prohibit all forms of sexual harassment of employees. Such conduct may result in disciplinary action up to and including termination. This policy shall pertain to all employees.

Furthermore, any manager or supervisor who knows of a sexually intimidating or hostile work environment or who becomes aware that the terms and conditions of an individual's employment are based upon submission to sexual conduct should immediately consult a member of the Executive Staff or one of the EEO Coordinators.

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Any employee who has a complaint about sexual harassment or any form of non-compliance with our Equal Employment Opportunity Program should contact an EEO Coordinator. All complaints will be handled in confidence in that only the parties necessary to the investigation will be informed.

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Staff and Responsibilities

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Ms. Ellen Kolodney
Elder Abuse Coordinator
Crime Victims Assistance Unit
198 East 161st Street, Room 566
718-838-2260

Ms. Keturah Ladd
Assistant District Attorney
Narcotics Bureau
215 East 161st Street, Room 3DA-23
718-838-6279

Mr. Joseph Muroff
Division Chief
Child Abuse/Sex Crimes Bureau 198
East 161st Street, Room 544
718-838-2195

Ms. Sonya Tennell
Supervisor
Public Integrity Bureau
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4. Inform any employee that wishes to file a complaint of their right to file a complaint outside of the office.
5. Report directly to the EEO Officer and to make recommendations as to the resolution of any problems that may arise.
6. Prepare confidential reports on the nature of any such complaints and submit them to the EEO Officer who in turn will submit them to District Attorney for decision.

Complaint Procedures

Any employee of the Office of the Bronx County District Attorney who believes that he/she may have been discriminated against because of *age, race, color, religion/creed, national origin, gender* (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history in regard to the terms and conditions of recruitment, selection, hiring, work assignment, transfer, training, evaluation, promotion, wages, benefits, disciplinary action, or separation, and/or who believes that he/she has been the victim of sexual harassment may file a formal complaint.

A formal complaint can be written (Office claim forms can be utilized and obtained from EEO Coordinators) or given verbally to an EEO Coordinator. The complainant must state the problem and provide specific details, including witnesses, dates, etc. The EEO Coordinator receiving the complaint will discuss with the complainant the specific allegations of the alleged discriminatory practice(s). This initial conference will be held, if possible, within five days after receipt of the complaint. The purpose of this conference will be to determine if the matter can be resolved without further administrative action. In the event an initial attempt at a resolution fails, an official inquiry shall be immediately commenced by the EEO Coordinator.

The EEO Coordinator has ten business days in which to complete the inquiry. An inquiry will consist of clarifying the complainant's report, notifying the respondent in writing that a complaint has been filed, interviews with cited witnesses and any member of the Office who may have relevant data or information. The EEO Coordinator will then have an additional five business days to prepare and submit a written report of the findings to the complainant and respondent, as

well as prepare and submit a detailed report of the findings to the EEO Officer with recommendations for correcting or remedying any substantiated acts of discrimination. The EEO Officer will discuss the complaint with the District Attorney and the Chief Assistant District Attorney and/or the Chief of Staff. This time period may be extended at the discretion of the EEO Coordinator for good cause. This report may also request additional conferences between the most directly concerned parties to discuss the allegation and inquiry and to determine if a resolution is possible without further proceedings.

Every effort will be made to ensure the confidentiality of these proceedings as well as any records of the proceedings that may be produced.

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The District Attorney is the final arbitrator of any dispute or disciplinary action.

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NYC Commission on Human Rights
100 Gold Street, Suite 4600
New York, NY 10038
Telephone: (212) 306-7450

New York State Division of Human Rights
Adam Clayton Powell State Office Building
163 West 125th Street, 4th Floor
New York, NY 10027
Telephone: (212) 961-8650

U.S. Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street, #1702
New York, New York 10004
Telephone: (800) 669-4000

In addition to filing with the agencies listed above, a person with a complaint alleging discrimination based on disability may file with:

United States Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section
Washington, DC 20530
Telephone: (800) 514-0301
Fax: (202) 307-1197
By email at ADA.complaint@usdoj.gov

The District Attorney is determined that no one will be discriminated against for reasons of *age, race, color, religion/creed, national origin, gender* (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history. This policy is an integral part of every aspect of personnel policy and practice in employment, development, advancement and treatment of all employees. Since unresolved problems of this nature can only create dissension and distrust, the District Attorney therefore urges any employee of this Office to seek resolution of their concerns following the designated procedures. The District Attorney will continue as the final arbitrator of any disputes within this Office.

¹ Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender and is prohibited under federal, state and the New York City Human Rights Law. On May 8, 2018, Mayor Bill DeBlasio signed the "Stop Sexual Harassment in NYC Act," a comprehensive legislative package aimed at addressing and preventing sexual harassment in the workplace.

ii The protected class of “caregiver status” was added to the New York City Human Rights Law on January 5, 2016, and took effect on May 4, 2016. A caregiver is defined as a person who provides direct and ongoing care for a minor child (under the age of 18) or a care recipient. A “care recipient” is defined as a person with a disability who is either a covered relative, or a person who resides in the caregiver’s household and who relies on the caregiver for medical care or to meet the needs of daily living. A covered relative is defined as a caregiver’s child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of the caregiver’s spouse or domestic partner, or any other individual in a familial relationship with the caregiver as designated by the rules of the New York City Commission on Human Rights.

iii “Consumer credit history” was added as a protected class to the New York City Human Rights Law on May 6, 2015, and went into effect on September 3, 2015. It is a discriminatory practice, except for specified positions such as police officers and peace officers, to request or use consumer credit history for employment purposes or to discriminate against an applicant or employee based on credit history. The New York City Commission on Human Rights has issued interpretative guidance (available on its website) on this law.

iv “Familial status” was added as a protected class for employment purposes to the New York State Human Rights Law on October 21, 2015, and went into effect on **January 19, 2016**. **“Familial status” is defined as (a) any person who is pregnant, or has a child or is in the process of securing legal custody of any individual who has not attained eighteen years of age, or (b) one or more individuals (who have not attained eighteen years of age) being domiciled with (1) a parent or another person having legal custody of such individual or individuals, or (2) the designee of such parent.**

v “Salary History” was added as a protected class in employment to the New York City Human Rights Law on May 4, 2017, and went into effect on October 31, 2017. “Salary history” includes the applicant’s current or prior wage, benefits or other compensation. “Salary history” does not include any objective measure of the applicant’s productivity such as revenue, sales or other production reports. This prohibition does not apply to certain applicants or employees, including applicants for internal transfer or promotion and public employee positions for which salary, benefits or other compensation are determined pursuant to procedures established by collective bargaining.

vi “Sexual and reproductive health decisions” was added as a protected class by amendment to the New York City Human Rights Law on January 20, 2019, and took effect on May 20, 2019. The Administrative Code of the City of New York was also amended at that time to add a new definition of “sexual and reproductive health decisions.” The term “sexual and reproductive health decisions” means any decision by an individual to receive services which are arranged for or offered or provided to individuals relating to sexual and reproductive health, including the reproductive system and its functions. Such services include, but are not limited to, fertility-related medical procedures, sexually transmitted disease prevention, testing, treatment, and family planning services and counseling, such as birth control drugs and supplies, emergency contraception, sterilization procedures, pregnancy testing, and abortion.

Appendix – 4

Office of the Bronx County District Attorney

*Office of the Bronx County District Attorney Equal Employment Opportunity
Program with Sexual Harassment and Reasonable Accommodation Policy
Statements,*

December 2019

**OFFICE OF THE DISTRICT ATTORNEY
BRONX COUNTY**

**EQUAL EMPLOYMENT
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DISTRICT ATTORNEY**

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

The Bronx District Attorney's Office is and will continue to be an equal opportunity employer. Every actual and qualified prospective employee will be considered for recruitment, selection, hiring, work assignment, transfer, training, evaluation, promotion, wages, benefits, discipline, and separation without regard to the employee's actual or perceived race, color, national origin, alienage or citizenship status, religion or creed, gender (including **sexual harassment**,ⁱ pregnancy and "gender identity" -- which refers to a person's actual or perceived sex, and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age (18 and over), military status, prior record of arrest or conviction, marital status, partnership status, **caregiver status**,ⁱⁱ genetic information or predisposing genetic characteristic, sexual orientation, status as a victim or witness of domestic violence, sex offenses or stalking, unemployment status, **consumer credit history**,ⁱⁱⁱ **familial status**^{iv} **salary history**^v, and **sexual and reproductive health decisions**.^{vi}

It is the policy of this Office to liberally grant employment interviews to those seeking employment with this agency. It is also our policy to actively seek applications for employment from persons of all genders (including gender identity, expression, and transgender status), races, and sexual orientations, as well as persons with disabilities. Members of the staff are encouraged to refer individuals they believe to be qualified for employment to Human Resources and Legal Recruitment.

Selection criteria for promotion will depend upon the specific position to be filled. The basic criteria for all positions will be based upon merit as demonstrated by prior performance. In addition to Civil Service rules, selection criteria will also include: experience, knowledge, productivity, initiative, responsibility, dependability, supervisor evaluations and the needs of the Office.

Salary increases for support staff are essentially not in the control of the District Attorney. General increases are granted whenever the Mayor and the City Council provide for such increases. However, individual increases in compensation can occasionally be granted based upon merit. Collective bargaining agreements for unionized employees are implemented as soon as effective.

Training programs are available to all employees. Employees are encouraged to increase their knowledge and improve their skills. The Office will continue to offer periodic training sessions concerned with all aspects of the work of the District Attorney's Office.

If an employee believes that regulations described above do not promote equal opportunity, or that these rules and regulations are not applied fairly, or wishes to suggest changes in the regulations in order to promote greater equality of opportunity, he or she should present that view to the EEO Officer, either through their supervisor, another manager or directly to the EEO Officer.

Policy Statement on Sexual Harassment

Our EEO policy states:

“The District Attorney is committed to ensuring that no one will be discriminated against for reasons of age, race, color, religion/creed, national origin, gender (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history. This policy is an integral part of every aspect of personnel policy and practice in employment, development, advancement or treatment of all employees.”

Sexual harassment in the workplace is a form of employment discrimination prohibited by law. The District Attorney provides mandatory training to all staff to familiarize them with the guidelines in this policy statement so that they will understand what type of conduct is prohibited and know the remedies available to anyone who has experienced sexual harassment or any other form of discrimination.

Guidelines issued by the United States Equal Employment Opportunity Commission identify sexual harassment as an unlawful employment practice and defines this illegal practice as:

"Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1) Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
or
- 3) Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment."

These guidelines are not meant to interfere with purely voluntary social interaction between individuals. However, all employees should be aware that there is a broad range of conduct by supervisors and co-workers which can, in certain circumstances, be considered sexual harassment. This includes, but is not limited to, sexually suggestive remarks, the display of sexually suggestive pictures, sexually suggestive gestures, verbal harassment or abuse of a sexual nature, subtle or direct propositions for sexual favors, and various forms of unwelcome physical contact.

It is the policy of the Bronx County District Attorney's Office to prohibit all forms of sexual harassment of employees. Such conduct may result in disciplinary action up to and including termination. This policy shall pertain to all employees.

Furthermore, any manager or supervisor who knows of a sexually intimidating or hostile work environment or who becomes aware that the terms and conditions of an individual's employment are based upon submission to sexual conduct should immediately consult a member of the Executive Staff or one of the EEO Coordinators.

Policy Statement and Procedure on Reasonable Accommodations

The Bronx District Attorney's Office will make reasonable accommodations to qualified employees and applicants with disabilities, unless providing such accommodations would create undue hardship for the Office. Whether an accommodation is reasonable generally depends upon all of the circumstances of each situation. Some examples of accommodations which have been found reasonable for certain employers, under certain circumstances, include: job restructuring; making facilities physically accessible to and usable by persons with disabilities; modifying work schedules; providing or modifying equipment or devices; and providing auxiliary aides and services. Staff with disabilities requesting reasonable accommodations to perform essential job functions must discuss their needs with their direct supervisor, who in turn should notify Cicely Harris, EEO Officer. Ms. Harris will provide the supervisor with reasonable accommodation forms to be completed by the person requesting such accommodation. If a staff member feels uncomfortable discussing the need for a reasonable accommodation with his or her supervisor, the request can be submitted directly to Ms. Harris. Documentation may be required to fully assess the request.

Any employee who has a complaint about sexual harassment or any form of non-compliance with our Equal Employment Opportunity Program should contact an EEO Coordinator. All complaints will be handled in confidence in that only the parties necessary to the investigation will be informed.

No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Such retaliation or harassment is unlawful

and will be cause for disciplinary action.

Every employee is entitled to meet with and file a complaint concerning equal opportunity with an EEO Coordinator. If the employee feels there is a violation of his or her rights, the preferred resolution of the problem is to discuss the problem with their immediate supervisor. If that is not satisfactory, then it should be discussed with the next level of supervisor or an EEO Coordinator.

Staff and Responsibilities

The District Attorney has designated Joseph Muroff, interim EEO Officer, to administer this Office's EEO Program. Mr. Muroff has overall responsibility for the collaboration, development and monitoring of the Equal Employment Opportunity Program, and will work with Office managerial and supervisory personnel on the program.

The District Attorney has designated the following staff as EEO Coordinators:

Mr. Rene Aponte
Bureau Chief
Complaint Room/Arraignments/DAT Unit
215 East 161st Street, Room 4-2D
718-838-6651

Mr. James Brennan
Division Chief
Trial Bureau
198 East 161st Street, Room 936
718-838-6145

Mr. Rocco Galasso
Supervising Rackets Investigator
198 East 161st Street, Room 401
718-838-7625

Ms. Aisha Greene
Bureau Chief
Alternative to Incarceration
265 East 161st Street, Room 905
718-838-7568

Ms. Ellen Kolodney
Elder Abuse Coordinator
Crime Victims Assistance Unit
198 East 161st Street, Room 566
718-838-2260

Ms. Keturah Ladd
Assistant District Attorney
Narcotics Bureau
215 East 161st Street, Room 3DA-23
718-838-6279

Mr. Joseph Muroff
Division Chief
Child Abuse/Sex Crimes Bureau 198
East 161st Street, Room 544
718-838-2195

Ms. Sonya Tennell
Supervisor
Public Integrity Bureau
198 East 161st Street, Room 626
718-838-7536

Ms. Lisa Waller
Deputy Bureau Chief
Civil Litigation Bureau
215 East 161st Street, Room 3DA-05
718-590-2425

Coordinators will serve as the recipients of any EEO complaints from members of this Office. They are responsible for the Office's complaint procedures. They are required to:

1. Receive any EEO complaint that is made by a member of this Office.
2. Be familiar with anti-discrimination laws and recent court decisions and procedures, in order to make a clear distinction between discriminatory activities and conduct which involves only other issues, such as labor relations.
3. Explain the complaint process to any employee having a complaint.
4. Inform any employee that wishes to file a complaint of their right to file a complaint outside of the office.

5. Report directly to the EEO Officer and to make recommendations as to the resolution of any problems that may arise.
6. Prepare confidential reports on the nature of any such complaints and submit them to the EEO Officer who in turn will submit them to District Attorney for decision.

Complaint Procedures

Any employee of the Office of the Bronx County District Attorney who believes that he/she may have been discriminated against because of *age, race, color, religion/creed, national origin, gender* (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history in regard to the terms and conditions of recruitment, selection, hiring, work assignment, transfer, training, evaluation, promotion, wages, benefits, disciplinary action, or separation, and/or who believes that he/she has been the victim of sexual harassment may file a formal complaint.

A formal complaint can be written (Office claim forms can be utilized and obtained from EEO Coordinators) or given verbally to an EEO Coordinator. The complainant must state the problem and provide specific details, including witnesses, dates, etc. The EEO Coordinator receiving the complaint will discuss with the complainant the specific allegations of the alleged discriminatory practice(s). This initial conference will be held, if possible, within five days after receipt of the complaint. The purpose of this conference will be to determine if the matter can be resolved without further administrative action. In the event an initial attempt at a resolution fails, an official inquiry shall be immediately commenced by the EEO Coordinator.

The EEO Coordinator has ten business days in which to complete the inquiry. An inquiry

will consist of clarifying the complainant's report, notifying the respondent in writing that a complaint has been filed, interviews with cited witnesses and any member of the Office who may have relevant data or information. The EEO Coordinator will then have an additional five business days to prepare and submit a written report of the findings to the complainant and respondent, as well as prepare and submit a detailed report of the findings to the EEO Officer with recommendations for correcting or remedying any substantiated acts of discrimination. The EEO Officer will discuss the complaint with the District Attorney and the Chief Assistant District Attorney and/or the Chief of Staff. This time period may be extended at the discretion of the EEO Coordinator for good cause. This report may also request additional conferences between the most directly concerned parties to discuss the allegation and inquiry and to determine if a resolution is possible without further proceedings.

Every effort will be made to ensure the confidentiality of these proceedings as well as any records of the proceedings that may be produced.

If discriminatory conduct is found, action appropriate to the severity of the unlawful conduct will be taken against those found to have practiced such conduct. Such action may include, but is not limited to, a warning, transfer to another unit, formal disciplinary hearing, mandatory training or counseling, suspension, probation, demotion and termination.

The District Attorney is the final arbitrator of any dispute or disciplinary action.

If it is found that there is not reasonable cause to believe discriminatory conduct exists or has existed, the case will be dismissed and closed. The complainant will be informed in writing of the disposition of the case and advised of their rights to obtain an attorney privately or to file a formal complaint with the agencies listed below:

NYC Commission on Human Rights
100 Gold Street, Suite 4600
New York, NY 10038
Telephone: (212) 306-7450

New York State Division of
Human Rights Adam Clayton
Powell State Office Building
163 West 125th Street, 4th Floor
New York, NY 10027
Telephone: (212) 961-8650

U.S. Equal Employment Opportunity Commission
New York District Office
33 Whitehall Street, #1702
New York, New York 10004
Telephone: (800) 669-4000

In addition to filing with the agencies listed above, a person with a complaint alleging discrimination based on disability may file with:

United States Department of Justice
950 Pennsylvania Avenue, NW
Civil Rights Division
Disability Rights Section
Washington, DC 20530
Telephone: (800) 514-0301
Fax: (202) 307-1197
By email at ADA.complaint@usdoj.gov

The District Attorney is determined that no one will be discriminated against for reasons of *age, race, color, religion/creed, national origin, gender* (identity, expression, or transgender status), disability, pregnancy (including childbirth and related medical conditions), sexual orientation, marital or partnership status, military status, alienage or citizenship status, arrest or conviction record, status as a victim of domestic violence, sexual violence, or stalking, genetic predisposition or carrier status, unemployment status, caregiver status, or credit history. This policy is an integral part of every aspect of personnel policy and practice in employment, development, advancement and treatment of all employees. Since unresolved problems of this nature can only create dissension and distrust, the District Attorney therefore urges any employee of this Office to seek resolution of their concerns following the designated procedures. The District Attorney will continue as the final arbitrator of any disputes within this Office.

¹ Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender and is prohibited under federal, state and the New York City Human Rights Law. On May 8, 2018, Mayor Bill DeBlasio signed the "Stop Sexual Harassment in NYC Act," a comprehensive legislative package aimed at addressing and preventing sexual harassment in the workplace.

¹ The protected class of "caregiver status" was added to the New York City Human Rights Law on January 5, 2016, and took effect on May 4, 2016. A caregiver is defined as a person who provides direct and ongoing care for a minor child (under the age of 18) or a care recipient. A "care recipient" is defined as a person with a disability who is either a covered relative, or a person who resides in the caregiver's household and who relies on the caregiver for medical care or to meet the needs of daily living. A covered relative is defined as a caregiver's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of the caregiver's spouse or domestic partner, or any other individual in a familial relationship with the caregiver as designated by the rules of the New York City Commission on Human Rights.

¹ "Consumer credit history" was added as a protected class to the New York City Human Rights Law on May 6, 2015, and went into effect on September 3, 2015. It is a discriminatory practice, except for specified positions such as police officers and peace officers, to request or use consumer credit history for employment purposes or to discriminate against an applicant or employee based on credit history. The New York City Commission on Human Rights has issued interpretative guidance (available on its website) on this law.

¹ "Familial status" was added as a protected class for employment purposes to the New York State Human Rights Law on October 21, 2015, and went into **effect on January 19, 2016. "Familial status" is defined as (a) any person who is pregnant, or has a child or is in the process of securing legal custody of any individual who has not attained eighteen years of age, or (b) one or more individuals (who have not attained eighteen years of age) being domiciled with (1) a parent or another person having legal custody of such individual or individuals, or (2) the designee of such parent.**

¹ "Salary History" was added as a protected class in employment to the New York City Human Rights Law on May 4, 2017, and went into effect on October 31, 2017. "Salary history" includes the applicant's current or prior wage, benefits or other compensation. "Salary history" does not include any objective measure of the applicant's productivity such as revenue, sales or other production reports. This prohibition does not apply to certain applicants or employees, including applicants for internal transfer or promotion and public employee positions for which salary, benefits or other compensation are determined pursuant to procedures established by collective bargaining.

¹ "Sexual and reproductive health decisions" was added as a protected class by amendment to the New York City Human Rights Law on January 20, 2019, and took effect on May 20, 2019. The Administrative Code of the City of New York was also amended at that time to add a new definition of "sexual and reproductive health decisions." The term "sexual and reproductive health decisions" means any decision by an individual to receive services which are arranged for or offered or provided to individuals relating to sexual and reproductive health, including the reproductive system and its functions. Such services include, but are not limited to, fertility-related medical procedures, sexually transmitted disease prevention, testing, treatment, and family planning services and counseling, such as birth control drugs and supplies, emergency contraception, sterilization procedures, pregnancy testing, and abortion.



**DARCEL D. CLARK
DISTRICT ATTORNEY, BRONX COUNTY**

September 24, 2020

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

**Re: Audit Status – Evaluation of Sexual Harassment Prevention and Response Practices
for Audit Period January 1, 2018 to December 31, 2019- Determination – Preliminary**

Dear Executive Director Terry:

This letter represents our response to the Preliminary Determination as part of the ongoing audit. This letter is organized with an initial Summary of Responses to the findings, then a more detailed position that addresses each individual corrective action.

Summary of Responses

Our overall impression of the audit is that it contains recommendations that we believe will be helpful to our administration and management of the Equal Employment Opportunity office here at the Bronx District Attorney's Office. Notwithstanding, much of what was cited as either non-compliance or only partial compliance is already being done. In the "Methodology" section, for example, it refers to a document request and responses to questions. It specifically refers to a request by the EEPC made on June 22, 2020. Emails were sent, in response to the June 22nd request, on July 13th and then again on July 29th to Mr. Hamilton and Ms. Tarallo. The entire scope of the request was provided, e.g. organizational charts, relevant job descriptions and answer to all questions were also provided. Corrective Action #1 refers to the "entity" as not distributing the EEO Policy. As a matter of fact, the EEO Policy has been and remained on the Bronx District Attorney's intranet and, employees receive the policy as part of their Onboarding and orientation and then sign an acknowledgment of the receipt thereof. As I assumed responsibilities as the EEO Officer in May of 2020, I can attest that the EEO Policy was on the intranet when I joined the Office, it was updated and the update notification to all staff was sent via email at 11:43 am on June 29th. It is also important to note that District Attorney Clark communicated her commitment to equity, fairness and in support of measures intended to prevent sexual harassment in August 2020. This observation is conveyed for illustrative purposes to convey that the Bronx District Attorney's Office has been demonstrating a good faith commitment to equity, fairness and inclusion in support of your recommended policies and will comply with any of your recommendations that will not adversely impact the operations of the Office.

Specific Corrective Recommendations

Corrective Action #1 – (a) Issuance of an Annual Policy Statement reiterating a commitment to the prevention of sexual harassment annually, (b) distribute policy for all staff access, (c) inclusion of the right to file a complaint “anonymously.”

Response: As noted above, the District Attorney issued a statement reflecting her commitment to diversity and in support of preventing sexual harassment on August 20th. In addition, District Attorney Clark also zealously supported and encouraged the participation in DCAS’s Preventing Sexual harassment Training which was concluded on August 7th. As noted above, the EEO Policy was updated and shared with all staff, it remains on the intranet for all staff access and New Staff receive the policy and are requested to sign upon the receipt thereof. Going forward, the District Attorney will continue to issue annual statements reflecting her commitment to prevention of sexual harassment, and the importance of diversity and equity in the workplace.

With regard to including the right to file complaints “anonymously”, the EEO Policy will be reflected to expressly include that right, but it should be noted that, as a practical matter, we already permit employees to file complains anonymously. As part of our practice, numbers or letter are assigned to protect the identities of complainants and the list of names are only included in the report that is submitted to the District Attorney.

Corrective Action #2 – Distribute/Post a copy of the EEO Policy that “conforms to city, state and federal laws against sexual harassment.”

Response: The Bronx District Attorney’s Office current EEO Policy does, in fact, comport and conform to city, state and federal standards. The Complaint Procedure section describes the process and includes suggested timetables, protocols, protected classes and procedures reflected in the DCAS policy.

Corrective Action #3 – Establish and implement a training plan to ensure that “all” new and existing employees are trained regarding the prevention of sexual harassment.

Response: It is my understanding that the Bronx District Attorney’s Office regularly participated in DCAS’s Annual Prevention of Harassment Training. In fact, during my tenure I was privy to information that indicated staff participation in the 2019 Preventing Harassment Training Module. Staff who did not complete the training in 2019 completed the same module, as of August 7th. The Completion rate numbers have not been provided by DCAS to date. In addition, our office contracted with EVERFI, a third-party vendor, that provided the following training for our staff: 1) Workplace Bullying and Violence Prevention, 2) EEO laws and Discrimination Prevention (Including Sexual harassment), 3) EEO laws and Discrimination Prevention

(Including Sexual harassment) Supervisor Supplement, 4) Diversity in Action: Creating an Inclusive Workplace. In addition, the Office provides internal annual training for supervisors in an array of subjects including (Prevention of Sexual Harassment).

According to the DCAS dashboard results, “73% of the workforce headcount...” completed the training. While we agree that ensuring that “all” employees is ideal, the Bronx District Attorney’s Office will continue to use its best effort to ensure that, at least, 73% of employees are trained and will use its good faith strategies to ensure that more employees are trained. An essential component of our training initiative is based on the completion rates; therefore, we regularly request compliance data from DCAS and will construct a strategy for increased compliance upon receipt of the information. It should be noted that we have not received the completion training data for the recent Preventing Sexual harassment Module completed on August 7, 2020.

Corrective Action #4 – Include in the complaint file completed Complaint Intake Form, or a written complaint that captures the facts, etc. and the essence of the circumstances which gave rise to the complaint.

Response – The Complaint Form is provided to the complainants upon receipt of their complaints. Therefore, it is already included in our complaint files. With regard to the EEP’s requests for our complaint files, we are amenable to providing a copy of the Complaint Intake Form, but are not comfortable with providing the contents of our files for many reasons, the least of which is our prerogative to preserve and secure our files and related records in the event that we have to respond to legal inquiries. As a practical matter, when the infrequent law suit is filed against our office, we provide information (including files) to the Law Department which represents us in these matters. We will, as requested, continue to provide summaries of complaints when requested as part of the audit process and will continue to input data regarding complaints in the DCAS Database.

Corrective Action #5 – Provide the option to file complaints anonymously.

Response – We already provide the option for employees to file complaints anonymously, as a practical matter. Our process is such that the name of the complainant is replaced with a letter or number in the investigation report so as to preserve the anonymity. In addition, the document that identifies the complainant is kept separate from the investigation report. The disclosure of the identity of the complainant is only disclosed on a ‘need to know’ basis, i.e. the District Attorney, General counsel, etc.). We will, prospectively, update our EEO Policy to reflect language expressly affording the right to file complaints anonymously.

Corrective Action #6 – Serve the respondent with a notice of complaint that includes the respondent’s right to respond to the allegations and right to be accompanied by a representative. Retain the form as part of the file.

Response – This particular corrective action will be taken under advisement as the Office has used the form previously and is presently reviewing the form. Moreover, notification of respondents has never been an issue. Notwithstanding, all respondents are always notified electronically and informed of their rights (including the right to have a representative present) during the initial phone conversation with the EEO Office. As we have email records that reflect the notification of employees, we will continue to utilize this method coupled with the initial phone conversation as we continue our review of the efficacy of the form relative to the needs of this office.

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.

Response – While we have very few mediations this procedure is already in effect as files are annotated to reflect the withdrawal of a complaint.

Corrective Action #8 - Take thorough notes during each interview. Include these notes in each complaint file.

Response – Note taking is already an essential part of the investigative and interview process, therefore, our investigators already take notes. The notes, i.e. answers to questions, questions, etc. are invariably incorporated into the investigatory report. We will take this recommendation under advisement.

Corrective Action #9 - Issue a conclusive report within ninety (90) days of the date that the complaint was filed. Commence an investigation immediately if allegations raised sufficiently warrant an investigation.

Response – Investigations are commenced after the receipt of the complaint and a review of the allegations. An investigator is assigned as quickly as practicable. We regularly endeavor to investigate complaints within ninety (90) days and will continue to do so.

Corrective Action #10 – In rare circumstances where an 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 for the reason for the delay.

Response – Albeit infrequent, any delays are usually either a result of the Complainant’s unavailability or a third party’s delay, i.e. other agency. If the delay is a result of a third party, e.g. DCAS, then we apprise the complaint as information become available.

Corrective Action #11 - Generate at the end of each complaint investigation, a conclusive confidential report that includes allegations, recommendations (if any) and Agency Head.

Response – This is already part of the EEO infrastructure. All report conclusions include recommendations, when applicable. The District Attorney reviews all reports, expresses her support or dissent with the conclusion and signs the document.

Corrective Action #12 - Maintain complaint files in a secure area such that they can be located and reviewed by the Agency Head, General Counsel and other appropriate staff.

Response – All EEO Files are created and stored electronically in a designated file managed exclusively by the EEO Officer and accessible to the Agency Head, the General Counsel and other appropriate staff designated by the Agency Head.

Corrective Action #13 – Establish and implement a policy whereby the agency head (or an approved direct report other than the General Counsel) reviews the investigator’s report.

Response – This, as a matter of course, is part of the existing EEO protocol. All investigator’s reports are already reviewed, approved, edited and signed by the District Attorney.

Corrective Action #14 – Inform the complainant/respondent of the outcome of the complaint.

Response – This, as a matter of course and practice, is already done.

Corrective Action #15 – Ensure that each internal discrimination complaint file contains a written determination of its outcome and corrective action (if recommended) as a result.

Response - This, as a matter of course and practice, is already done.

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

Response – We request some clarity regarding corrective action #16. It is not clear whether the EEOC is suggesting that the responsibility of investigating a complaint is transferred to another internal/external investigator because an external complaint has been concurrently filed or that, for some reason, the internal investigation ceases because a complaint has been filed with a third-party agency. In any case, we do not transfer investigation responsibilities as a result of the filing of external complaints. Our rationale is based on the idea of professional continuity and the filing of an external complaint does not vitiate the need to continue the investigation. In fact, the filing of an external complaint creates additional responsibility to ensure that we have conducted the most thorough investigation. As a result of the foregoing, we request clarification. It is also very likely that this corrective action may be believe moot.

Corrective Action #17 – Establish and utilize a complaint tracking and monitoring system that permits the agency to identify the location, allegations, status and the duration of complaint processing, etc.

Response - While this is a good idea, it will require a financial commitment that would be impractical for our office at this time. Consequently, we will continue to use the DCAS Complaint/Reasonable Accommodation Database. In addition, the EEO Officer will periodically conduct analyses for the purpose of identifying trends.

Corrective Action #18 – Ensure that the General Counsel assists the Agency Head in identifying and determining responses to sexual harassment, works with EEO professional in implementing policies regarding sexual harassment, etc.

Response - This, as a matter of course and practice, is already done.

Corrective Action #19 - Ensure that the General Counsel, EEO Professional, HR professional review the number of sexual harassment complaints and the agency's employment practices, policies and programs on an annual basis.

Response - This, as a matter of course and practice, is already done and will continue.

Corrective Action #20 – Where the agency's organizational structure necessitates, the selection of multiple EEO professionals from different locations and from a variety of levels and to ensure that the EEO professionals are adequately trained.

Response – The assignment of professionals in strategic locations, as a matter of course and practice, is already being done and will continue. We will use our best efforts to ensure that all EEO investigators are annually trained. The EEO Officer will contact DCAS about available training modules, but will also conduct an annual internal training as a supplement to any DCAS training.

On page 15, there was a corrective action that referenced the interim EEO professional. The language is as follows: The entity did not demonstrate that the interim EEO Professional was trained regarding, the prevention, investigation and resolution of sexual harassment complaints.

Response – The interim EEO professional is an experienced prosecutor with more than 30 years of experience in matters related to sexual harassment and sex crimes. He, as a Bureau Chief, and now Bronx District Attorney's Office executive, has had training in sexual harassment and completed DCAS's Preventing Sexual harassment Training on October 31, 2019 during the audit period. We believe that the then interim EEO professional did have the required training as a part of his professional career, including DCAS' training over the years. Your report does reflect that the current EEO professional was trained on June 26, 2020 which illustrates that the District Attorney did ensure that the current EEO professional was trained.

Corrective Action #21 – Ensure that the principal EEO professional works cooperatively and closely with the General Counsel in the implementation of policies concerning EEO and sexual harassment prevention.

Response - This, as a matter of course and practice, is already done and will continue.

Corrective Action #22 – Assign the principal EEO Professional the responsibility to supervise the activities of EEO professionals to ensure that anti-harassment procedures are distributed, posted, etc.

Response – The principal EEO professional reviews/supervises the work, i.e. reports, and advises investigators regarding investigations. This review is limited only to the investigators' EEO activities as all investigators have other non-EEO related responsibilities and are not dedicated staff.

Corrective Action #23 – Ensure that the principal EEO professional reports directly to the agency head in order to exercise the necessary authority and independent judgment to fulfill EEO responsibilities.

Response – As reflected in the annual Affirmation of Reporting, the principal EEO professional reports to the District Attorney, but consults with the General Counsel as needed for day to day matters. As a practical matter, the principal EEO professional regularly interacts with the District Attorney's to consult on matters.

n.b. As the EEO professional, I attest that I have exercised independent judgment, in accordance with the responsibilities of the EEO Office, which has not been influenced by factors other than the facts of a particular case.

Corrective Action #24 – Maintain documentation regarding directives or decisions between the agency head and the principal EEO professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

Response – This corrective action is vague, broad and, more importantly, intrudes on the confidentiality of the EEO Office and the purview of the District Attorney's business decisions. Therefore, we will respectfully oppose this recommendation.

Corrective Action #25 – Ensure that managers and supervisors are held accountable for enforcing the agency's sexual harassment prevention policies. Document this expectation and its implementation.

Response - This, as a matter of course and practice, is already done and will continue. When supervisors/managers violate policies, they are subjected to the same range of accountability as staff, i.e. suspension, termination, training, demotion, etc.

Corrective Action #26 – Ensure that managerial performance evaluation forms contain rating for EEO (employment decisions based on merit, treating staff equitably).

Response – We will take this corrective action under advisement and request that the EEPC provide specific guidance or examples of how other agencies have crafted their evaluations so that we may study the recommendation.

Corrective Action #27 – Submit to the EEPC an annual plan, quarterly reports.

Response – DCAS, for the first time, requested an Annual Plan from the Bronx district Attorney's Office in 2020. A plan has been submitted for review. DCAS has instructed the

Office to refrain from submitting any quarterly reports until the annual plan is finalized and reviewed by DCAS.

Corrective Action #28 – Assuming that the “Final Action” is corrective action 28 (as it is not labeled)- distribute a memorandum signed by the agency head that re-emphasizes the commitment to the EEO program, including the prevention of sexual harassment and informs employees of any changes to the agency’s employment practice as a result of the EEPC’s monitoring.

Response – As part of the EEO Plan, the District Attorney drafted a commitment to diversity, that included recognizing the need for the creation of an equitable, fair and safe workplace. On August 20th, the District Attorney re-emphasized her commitment in an ‘all staff’ communication. The current communication will be edited to reflect sexual harassment prevention and discrimination and will be shared with staff throughout the year.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Darcel D. Clark".

Darcel D. Clark



Sasha Neha Ahuja
Chair

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BY EMAIL

October 5, 2020

Darcel D. Clark
District Attorney
Office of the Bronx County District Attorney
198 E. 161 Street
Bronx, NY 10451

Audit Status:

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

Determination: FINAL

Resolution #: 2020AP/243-902-(2020)

Dear District Attorney Clark:

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: September 10, 2020

Response Received: September 24, 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 Bronx County District Attorney's Sexual Harassment Prevention and Response Practices.

As the Office of the Bronx County District Attorney 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 standards¹ 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 Bronx County District Attorney'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: November 1, 2020 to April 30, 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 Bronx County District Attorney has taken, or will take, to correct outstanding areas of non-compliance during the designated compliance-monitoring period. The Office of the Bronx County District Attorney will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Office of the Bronx County District Attorney 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 Bronx County District Attorney's implementation of the final corrective action, if any, the EEPC requires that the Office of the Bronx County District Attorney 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 Bronx County District Attorney must submit a final memorandum (See Next Steps, Final Memorandum). Upon the EEPC's receipt of the final memorandum, the Office of the Bronx County District Attorney will be exempt from the abovementioned compliance-monitoring period.

¹ 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 or 212-615-8942.

Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry
Executive Director

c: Ricardo Granderson, Principal EEO Professional, Office of the Bronx County District Attorney

Enclosed: TeamCentral Agency Manual

FINAL DETERMINATION

A response indicating progress of Office of the Bronx County District Attorney'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 response² (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 #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 Files are created and stored electronically in a designated file managed exclusively by the EEO Officer and accessible to the Agency Head, the General Counsel and other appropriate staff designated by the Agency Head."

EEPC Response:

The EEPC accepts the entity's response, which demonstrated the entity's complaint files were maintained in a secure area, and were able to be located and reviewed by the agency head, agency general counsel, and other appropriate staff identified by the agency head upon request, as demonstration that corrective action #12 has been implemented.

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.

² Excerpts are italicized.

Agency Response:

"[T]he District Attorney issued a statement reflecting her commitment to diversity and in support of preventing sexual harassment on August 20th. In addition, District Attorney Clark also zealously supported and encouraged the participation in DCAS's Preventing Sexual [H]arassment Training which was concluded on August 7th. As noted above, the EEO Policy was updated and shared with all staff, it remains on the intranet for all staff access and New Staff receive the policy and are requested to sign upon the receipt thereof. Going forward, the District Attorney will continue to issue annual statements reflecting her commitment to prevention of sexual harassment, and the importance of diversity and equity in the workplace."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #1. To demonstrate compliance, provide a copy of the August 20, 2020 statement issued by the District Attorney, or other Policy Statement or memorandum issued by the agency head, which reiterates the agency head's commitment to the prevention of sexual harassment. Also provide documentation of the distribution/electronic posting of the August 20, 2020 or other Policy Statement or memorandum. 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:

"The Bronx District Attorney's Office current EEO Policy does, in fact, comport and conform to city, state and federal standards. The Complaint Procedure section describes the process and includes suggested timetables, protocols, protected classes and procedures reflected in the DCAS policy."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #2. To demonstrate compliance, provide documentation that the *Office of the Bronx County District Attorney Equal Employment Opportunity Program with Sexual Harassment and Reasonable Accommodation Policy Statements* (EEO Policy) was distributed (such as via memorandum or email) or posted in a manner which was accessible to all employees. Prior to distribution or posting, the EEO Policy must be updated to include uniform and responsive procedures for investigating discrimination complaints, as set forth in the EEPC's Preliminary Determination §1.2. The EEO Policy must also be updated to include the current contact information for federal, state and local agencies that enforce laws against discrimination/sexual harassment, specifically the correct office address for the New York City Commission on Human Rights. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #3:

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

Agency Response:

"[T]he Bronx District Attorney's Office regularly participated in DCAS's Annual Prevention of Harassment Training. In fact, during my tenure I was privy to information that indicated staff participation in the 2019 Preventing Harassment Training Module. Staff who did not complete the training in 2019 completed the same module, as of August 7th. The Completion rate numbers have not been provided by DCAS to date. In addition, our office contracted with EVERFI, a third party vendor, that provided the following training for our staff: 1) Workplace Bullying and Violence Prevention, 2) EEO laws and Discrimination Prevention (Including Sexual harassment), 3) EEO laws and Discrimination Prevention (Including Sexual harassment) Supervisor Supplement, 4) Diversity in Action: Creating an Inclusive Workplace. In addition, the Office provides internal annual training for supervisors in an array of subjects including (Prevention of Sexual Harassment).

According to the DCAS dashboard results, "73% of the workforce headcount..." completed the training. While we agree that ensuring that "all" employees is ideal, the Bronx District Attorney's Office will continue to use its best effort to ensure that, at least, 73% of employees are trained and will use its good faith strategies to ensure that more employees are trained. An essential component of our training initiative is based on the completion rates, therefore we regularly request compliance data from DCAS and will construct a strategy for increased compliance upon receipt of the information. It should be noted that we have not received the completion training data for the recent Preventing Sexual harassment Module completed on August 7, 2020."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #3. The entity's response indicates the entity has a training plan to ensure all employees are trained on the prevention of sexual harassment as well as discrimination complaint and investigation procedures. To demonstrate compliance, provide the entity's training plan (which must include a timetable) and documentation of implementation of the training plan. 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:

"The Complaint Form is provided to the complainants upon receipt of their complaints. Therefore, it is already included in our complaint files. With regard to the EEPC's requests for our complaint files, we are amenable to providing a copy of the Complaint Intake Form, but are not comfortable with providing the contents of our files[.]"

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #4. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide a (redacted) completed complaint intake form, or a complaint that captures/identifies: the respondent(s) with reasonable specificity; pertinent dates; and facts/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:

"We already provide the option for employees to file complaints anonymously, as a practical matter... We will, prospectively, update our EEO Policy to reflect language expressly affording the right to file complaints anonymously."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #5. To demonstrate compliance, provide the entity's updated EEO Policy, which includes 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:

"This particular corrective action will be taken under advisement as the Office has used the form previously and is presently reviewing the form. Moreover, notification of respondents has never been an issue. Notwithstanding, all respondents are always notified electronically and informed of their rights (including the right to have a representative present) during the initial phone conversation with the EEO Office. As we have email records that reflect the notification of employees, we will continue to utilize this method coupled with the initial phone conversation as we continue our review of the efficacy of the form relative to the needs of this office."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #6. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide a (redacted) complaint notice to the respondent that includes: the right to respond to the allegations and right to be accompanied by a representative. 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:

"While we have very few mediations this procedure is already in [e]ffect as files are annotated to reflect the withdrawal of a complaint."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #7. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide documentation that demonstrates that if an internal complaint/mediation was terminated, withdrawn or resolved by agreement of the parties or EEO Office written confirmation was maintained in the investigation file. 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:

“Note taking is already an essential part of the investigative and interview process, therefore, our investigators already take notes. The notes, i.e. answers to questions, questions, etc. are invariably incorporated into the investigatory report. We will take this recommendation under advisement.”

EEPC Response:

The EEPC acknowledges the entity’s commitment to the implementation of corrective action #8. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide (redacted) notes taken during a complaint investigation interview. 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:

“Investigations are commenced after the receipt of the complaint and a review of the allegations. An investigator is assigned as quickly as practicable. We regularly endeavor to investigate complaints within ninety (90) days and will continue to do so.”

EEPC Response:

The EEPC acknowledges the entity’s commitment to the implementation of corrective action #9. To demonstrate compliance, the entity must clarify its complaint procedures within the EEO Policy to establish that the EEO Coordinator’s detailed report that is submitted to the principal EEO Professional is the final conclusive report for a complaint investigation. Also provide, for a complaint investigation completed subsequent to the period in review, a (redacted) conclusive (confidential) report dated within 90 days from 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:

“Albeit infrequent, any delays are usually either a result of the Complainant’s unavailability or a third party’s delay, i.e. other agency. If the delay is a result of a third party, e.g. DCAS, then we apprise the complaint as information become available.”

EEPC Response:

The EEPC acknowledges the entity’s commitment to the implementation of corrective action #10. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review where a conclusive report is not issued within 90 days, provide the (redacted) delay notification letters to the complainant and respondent. Also provide documentation that demonstrates the reason for the delay and a

projected time for completion of the report was maintained in the complaint investigation file. 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:

"This is already part of the EEO infrastructure. All report conclusions include recommendations, when applicable. The District Attorney reviews all reports, expresses her support or dissent with the conclusion and signs the document."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #11. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide a (redacted) confidential conclusive 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. 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:

"This, as a matter of course, is part of the existing EEO protocol. All investigator's reports are already reviewed, approved, edited and signed by the District Attorney."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #13. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide a (redacted) conclusive investigation report signed (physically/electronically) by the agency head to indicate the recommendations were reviewed and adopted, rejected, or modified. 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:

"This, as a matter of course and practice, is already done."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #14. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide

the (redacted) written correspondence to the complainant and respondent informing them of the conclusion and outcome of the investigation. 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:

"This, as a matter of course and practice, is already done."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #15. To demonstrate compliance, for a complaint investigation completed subsequent to the period in review, provide (redacted) written documentation of the complaint outcome or determination and any corrective action 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:

"We request some clarity regarding corrective action #16...we do not transfer investigation responsibilities as a result of the filing of external complaints. Our rationale is based on the idea of professional continuity and the filing of an external complaint does not vitiate the need to continue the investigation. In fact, the filing of an external complaint creates additional responsibility to ensure that we have conducted the most thorough investigation. As a result of the foregoing, we request clarification. It is also very likely that this corrective action may be believe [sic] moot."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #16. To clarify the audit standard, when a complaint is made to an external agency on the same basis as an internal complaint, the internal complaint should be closed by the EEO Office, and all parties should be notified of the transfer of the investigation to the General Counsel's Office. To demonstrate compliance, for a complaint investigation that was transferred from the EEO Office because of the filing of an external complaint subsequent to the period in review, provide the (redacted) written notifications to the complainant and respondent notifying them of the transfer of the investigation. 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:

"While this is a good idea, it will require a financial commitment that would be impractical for our office at this time. Consequently, we will continue to use the DCAS Complaint/Reasonable Accommodation Database. In addition, the EEO Officer will periodically conduct analyses for the purpose of identifying trends."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #17. To demonstrate compliance, provide documentation that demonstrates the entity's utilization of the DCAS or other tracking system or log that identifies for each complaint: the location, status, and length of time elapsed in the complaint investigation process, the issues and the bases of the complaints, the aggrieved individuals, pertinent dates, and other information necessary to analyze complaint activity to identify trends. 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:

"This, as a matter of course and practice, is already done."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #18. To demonstrate compliance, provide documentation/directives/statement or commitment of the General Counsel's responsibilities to work with the principal EEO Professional in the implementation of the entity's policies and procedures pertaining to sexual harassment; inform the principal EEO Professional when external complaints or litigation involving sexual harassment are brought against the agency; investigate and respond to external sexual harassment complaints; and the General Counsel's availability to consult on internal EEO investigations. 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:

"This, as a matter of course and practice, is already done and will continue."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #19. To demonstrate compliance, provide documentation that demonstrates the principal EEO Professional, HR Professional, and General Counsel met at least annually to review the number of sexual harassment complaints, and the agency's employment practices, policies and programs 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:

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:

"The assignment of professionals in strategic locations, as a matter of course and practice, is already being done and will continue. We will use our best efforts to ensure that all EEO investigators are annually trained. The EEO Officer will contact DCAS about available training modules, but will also conduct an annual internal training as a supplement to any DCAS training."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #20. To demonstrate compliance, provide documentation (e.g. certificates of completion/attendance) to demonstrate that each of the EEO Coordinators completed training in EEO-related laws/procedures (at minimum, training that pertains to the assigned role/responsibilities) and a copy of the curriculum for each EEO training. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #21:

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:

"This, as a matter of course and practice, is already done and will continue."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #21. To demonstrate compliance, provide a procedure or policy that requires a cooperative relationship between the legal and EEO staff or units, and documentation of the cooperative relationship between the principal EEO Professional and the General (or relevant) Counsel in implementing EEO policies and procedures. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #22:

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:

"The principal EEO professional reviews/supervises the work, i.e. reports, and advises investigators regarding investigations. This review is limited only to the investigators' EEO activities as all investigators have other non-EEO related responsibilities and are not dedicated staff."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #22. To demonstrate compliance, provide documentation that demonstrates the principal EEO Professional or EEO-related designee was assigned the responsibility to distribute/post policies against sexual harassment and complaint procedures at all agency locations and make EEO-related policies available in alternative formats (i.e., large print, audio recording and/or Braille) upon request. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #23:

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:

"As reflected in the annual Affirmation of Reporting, the principal EEO professional reports to the District Attorney, but consults with the General Counsel as needed for day to day matters. As a practical matter, the principal EEO professional regularly interacts with the District Attorney's (sic) to consult on matters."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #23. To demonstrate compliance, provide an organizational chart which, at minimum, indicates the title of principal EEO Professional and a reporting relationship to the agency head (or to a direct report other than the General Counsel) for EEO responsibilities. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #24:

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:

"This corrective action is vague, broad and... intrudes on the confidentiality of...business decisions."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #24. To demonstrate compliance, provide meeting minutes, memos, directives, or correspondence between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional, which pertain to directives or decisions that impact the administration and operation of programs, policies or procedures concerning sexual harassment. Also provide documentation that demonstrates subsequent implementation of the decisions or actions taken by the entity as a result of the directives. Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #25:

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:

"This, as a matter of course and practice, is already done and will continue. When supervisors/managers violate policies, they are subjected to the same range of accountability as staff, i.e. suspension, termination, training, demotion, etc."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #25. To demonstrate compliance, provide documentation that demonstrates implementation of the expectation that supervisors are held accountable for enforcing the agency's sexual harassment policies and complaint procedures (e.g. sign-in sheets from meetings between supervisors and subordinates regarding EEO accountability, a current managerial evaluation form which contains a pertinent rating, etc.). Implementation of this corrective action will be monitored during the assigned compliance-monitoring period.

Corrective Action #26:

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:

"We will take this corrective action under advisement and request that the EEPC provide specific guidance or examples of how other agencies have crafted their evaluations so that we may study the recommendation."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #26. To demonstrate compliance, provide a managerial performance evaluation that contains a pertinent EEO rating, which includes 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 EEPC will provide additional guidance toward implementation of this corrective action during the assigned compliance-monitoring period.

Corrective Action #27:

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.

Agency Response:

"DCAS, for the first time, requested an Annual Plan from the Bronx [D]istrict Attorney's Office in 2020. A plan has been submitted for review. DCAS has instructed the Office to refrain from submitting any quarterly reports until the annual plan is finalized and reviewed by DCAS."

EEPC Response:

The EEPC acknowledges the entity's commitment to the implementation of corrective action #27. To demonstrate compliance with this standard, upon the 2020 plan's finalization, and going forward, provide the entity's annual plans to provide EEO and quarterly reports on efforts to implement them that include a breakout of sexual harassment complaint activity, or affirmation of no complaint activity, in each quarterly report. The annual plans and quarterly reports must also be submitted via email to: 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/243-902-(2020)
Office of the Bronx County District Attorney
District Attorney Darcel D. Clark
Sexual Harassment Prevention and Response Practices
DETERMINATION: FINAL**

S Y N O P S I S

Corrective Action(s):	Total: 27		
Period Audit Covered:	January 1, 2018 to December 31, 2019		
Preliminary Determination Issued:	September 10, 2020	Response Received	September 24, 2020
Final Determination Issued:	October 5, 2020	Response Due	November 4, 2020
Compliance-Monitoring:	Required		November 1, 2020 to April 30, 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 Bronx County District Attorney’s Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Office of the Bronx County District Attorney’s Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated September 10, 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. 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
21. 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.
22. 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.

23. 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.
24. 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.
25. 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.
26. 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).
27. 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.

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 October 5, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from November 1, 2020 to April 30, 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 5, 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 District Attorney Darcel D. Clark to assign compliance-monitoring.

Approved unanimously on October 22, 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



THE DISTRICT ATTORNEY
BRONX COUNTY

DARCEL D. CLARK
October 28, 2020

Ms. Charise L. Terry
Executive Director
Equal Employment Practices Commission
253 Broadway, Suite 602
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/243-902-(2020)

Dear Executive Director Terry:

On behalf of the 1,200 employees in the Bronx District Attorney's Office, (alternately referred to in this document as 'BXDA'), I thank you and your colleagues for the opportunity to participate in this audit process. We learned a great deal from the 2016 audit and have learned a great deal in this process as well.

I, as the District Attorney, am committed to maintaining fair and effective employment practices for all employees and applicants. The "BXDA" is committed to the prevention of sexual harassment, adherence to the related compliance requirements and, continuing to run an office that is responsive to these issues. This Final Determination stage requires the production of supporting documentation for corrective actions. Where we agree, our response will be "Document Attached." Where we have some reasonable, professional differences concerning the corrective action, a narrative will be provided. The documents are labelled with roman numerals and appended after the body of our substantive responses below.

From the outset, we note that you agreed with our response to Corrective Action #2, i.e. maintenance of files in a secure area. Our responses are described as follows for your review.

Bronx District Attorney's Office's Response to EEPC Final Determination

Corrective Action #1 - Document Attached, (see Attachment I, District Attorney's Communication to all staff).

Corrective Action #2 - Document Attached, (see Attachment II, the EEO Policy Communication to all staff).

Corrective Action #3 - Document Attached, (see Attachment III, Approved DCAS EEO Plan).

Corrective Action #4 - Document Attached, see Attachment IV, Redacted Complaint Intake Form.

Corrective Action #5 - Document Attached, (see Attachment V, language regarding the filing of anonymous complaints incorporated into the EEO Policy).

Corrective Action #6 – Document Attached, (see Attachment VI, redacted electronic complaint notice to Respondent).

Corrective Action #7 – Document Attached, (see Attachment VII, redacted email communication regarding complainant’s complaint withdrawal).

Corrective Action #8 – The issue here is whether a non-mayoral agency, as part of an audit, is required to produce confidential investigative reports as part of the audit process.

The applicable statute is 2015 New York Laws PBO-Public Officers Law Section, Article 6 (Public Officers) Freedom of Information Law, NY Pub Off L § 87 (2015) which governs access to agency records. That specific section exempts the disclosure of records that reflect “final agency policy or determinations.” It is our position that our internal EEO investigation reports are “determinations” as referenced in the statute. This office routinely relies on Public Officers Law NY Pub Off L § 87,(2)(b) (2015) as grounds for redacting sensitive information from documents that we produce. In addition to the statute, we found 2 cases that support our position, Matter of Data Tree, LLC v. Romaine, 9 N.Y.3d 454, 463-64 (2007); and Gould v. New York City Police Department, 89 N.Y.2d 267, 277-78 (1996). As a result of the foregoing, we will provide redacted complaints in compliance with your request.

Corrective Action #9 – Your responses request that we “clarify” our complaint procedure to reflect that the reports that are submitted by our EEO Coordinators (referred to as ‘investigators’ in the BXDA) to the EEO professional are “the final conclusive report for a complaint investigation.” While the report that is submitted to the EEO professional is the presumed and putative “final” document, the report, as a practical matter, is not deemed “final” until it is reviewed and signed by the District Attorney who may have questions about the report. We are amenable to including an explanation in our policy that includes language reflecting that a report is deemed “final” only after the review of the District Attorney.

Corrective Action #10 – To reiterate, delays, albeit infrequent; are usually either the result of the Complainant’s unavailability or a third party’s delay, i.e. other city agency. If the delay is a result of the third party, then we apprise the Complainant of the reason for the delay and provide information as soon as it becomes available (see Attachment VIII, redacted communications to a Complainant regarding delays by a third party). It should be noted that, despite the delay by the third party agency, the particular investigation will be concluded within 90 (ninety) days,

Finally, we also note that covid-19 has significantly impacted some of our investigations as staff were not able to access physical files and were not able to communicate with parties until the remote capability was standardized. Remote access was not available to all 1,200 employees. As such, there were some logistical challenges. As the office has begun its incremental return to work, many of the logistical issues are abating and pending investigations are continued.

Corrective Action #11 – As discussed in corrective action 8, redacted reports will be provided. See Attachment IX (redacted report).

Corrective Action #13 - See attached a redacted copy of the signature page, Attachment X (this complaint was filed subsequent to the audit period).

Corrective Action #14 – Document Attached (see Attachment XI, Complainant/Respondent Status update).

Corrective Action #15 - As this corrective action is very similar to Corrective Action #11, we refer you to Attachment IX above. Also attached is a certificate that illustrates both the “outcome...” and “...corrective action taken” (see Attachment XII, Society for Human Resources Management (“SHRM”) Certificate of Attendance dated 8/28/20).

Corrective Action #16 – As communicated in our response to the Preliminary Response, we do not transfer investigation responsibilities as a result of the filing of an external complaint that was filed by a Complainant who had previously filed a related internal complaint. Our rationale is based on the idea that professional continuity and responsibility require that we complete an investigation once filed. We see our investigative function as part of a commitment that we make to all staff and as conforming to the implications of DCAS’ guidelines. As the essence of corrective action #16 is disclosure to the complainant, it should be noted that, subsequent to the audit period, we did inquire about whether a third party agency could assume investigatory responsibilities in a matter and contemporaneously and regularly informed the complainant regarding the inquiry (see Attachment XIII, 2 email redacted communications to an employee regarding our inquiry to the third party agency).

Corrective Action #17 - We agree that a tracking system is a good idea. It is my understanding that we have used the DCAS Complaint/Reasonable Accommodation system in the past, and we will continue to use it to track our Reasonable Accommodation information. It should be noted that we will not be adding complaint information. As discussed above, complaints are confidential. As the entity vested with the responsibility to investigate, we also have a concomitant obligation of preserving the confidentiality associated with the filing of complaints.

We will develop, as an internal mechanism, a spreadsheet that will be used to track complaints. We will also research software that may be of value. Part of our rationale here is that while the granting of an accommodation is also confidential, the probability of litigation is significantly less likely when compared to EEO complaints, thus our position regarding the disclosure of complaints in a database.

Corrective Action #18 - Document Attached (see Attachment XIV, General Counsel Commitment to working with Agency Head and EEO Principal).

Corrective Action #19 – Document Attached (see Attachment XIV, redacted Meeting Agenda for meetings between the EEO Principal and the General Counsel).

Corrective Action #20 – Document Attached (see Attachment XV, certificates/list of investigators trained in 2019 and/or 2020).

Corrective Action #21 – See response to corrective action 18 (General Counsel commitment to working with EEO professional).

Corrective Action #22 – While we do not have any documentation that reflects that the EEO Professional or designee was “assigned the responsibility to distribute/post policies against sexual harassment”, we can assure you that the EEO Professional did review and confirm that the Stop Sexual Harassment Act Notice was posted on each floor in all four buildings. In our agency this had not been an EEO responsibility.

Corrective Action #23 – As part of your request for information during the Preliminary Determination phase, we previously submitted our organizational chart to Mr. Peterson and Ms. Tarallo on July 13, 2020. As communicated in our prior response, the EEO professional reports to the District Attorney, but consults regularly with the General Counsel as needed for day to day matters.

Corrective Action #24 – We respectfully decline this request as it infringes upon the confidential communications between the agency head and the EEO Principal.

Corrective Action #25 – When managers have violated EEO policies or sexual harassment standards, those managers are held accountable as all staff. Consequently, the Bronx District Attorney’s Office avails itself of all possible recourse, i.e. suspension, separation, fines, training, etc.

Corrective Action #26 – We agree with this recommendation. Therefore, we are discussing such changes with a clear objective of implementation in the immediate future.

Corrective Action #27 – Document already attached, see the approved EEO Plan above in Attachment III.

We have appreciated the opportunity to participate in this audit and have learned a great deal. We believe that we should also mention that we do not hold employees to the strict one year complaint filing deadline, especially where the complaint is based on ongoing behavior. Our philosophy is to support complainants when they are filed and to investigate thoroughly. We look forward to working with your team.

Respectfully Submitted,

A handwritten signature in black ink that reads "Darcel D. Clark". The signature is written in a cursive style with a prominent initial "D" and a long, sweeping underline.


Darcel D. Clark
District Attorney



THE DISTRICT ATTORNEY
BRONX COUNTY

DARCEL D. CLARK

Memorandum

TO: All Employees
FROM: District Attorney Clark 
DATE: 7/7/2021
RE: Audit: Review, Evaluation, and Monitoring of Sexual Harassment Prevention and Response Practices
Office of the Bronx County District Attorney

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

The EEOC recently concluded an audit and evaluation of the Office of the Bronx County District Attorney practices and procedures for compliance with city, state, and federal equal employment opportunity laws and regulations, and identified enhancement by means of the following:

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

- Provide the option to file a complaint anonymously.
- 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.
- Issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office.
- Take thorough notes, of words spoken and facts provided, during each interview. Include these notes in each complaint file.
- 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.
- 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.
- 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.
- 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.
- 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.
- Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
- Ensure each internal discrimination complaint file contains a written determination of its outcome and corrective action(s) taken as a result.

- 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
- 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.
- 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.
- 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.
- 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.
- 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.
- 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.

- 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.
- 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.
- 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.
- 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).
- 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 District Attorney Clark reaffirms the commitment to ensuring that Office of the Bronx County District Attorney'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.



Aldrin Rafael Bonilla
Chair

Minosca Alcantara
Elaine S. Reiss, Esq.
Commissioners

Jeanne M. Victor
Executive Director

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

253 Broadway
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New York, NY 10007

212. 615. 8939 tel.
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BY EMAIL

July 22, 2021

Darcel D. Clark
District Attorney
Office of the Bronx County District Attorney
198 E. 161 Street
Bronx, NY 10451

Re: Resolution #2020AP/250-902-(2021)C46
DETERMINATION: Compliance

Dear District Attorney Clark:

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 Ricardo Granderson 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 "Aldrin Rafael Bonilla". The signature is fluid and cursive, with a long horizontal stroke at the end.

Aldrin Rafael Bonilla
Chair

c: Ricardo Granderson, Principal EEO Professional, Office of
the Bronx County District Attorney



Monitoring of Sexual Harassment Prevention and Response Practices

RESOLUTION NO.

2020AP/250-902-(2021)C46

Office of the Bronx County District Attorney

District Attorney Darcel D. Clark

DETERMINATION: COMPLIANCE

SYNOPSIS

Corrective Action(s):	Total: 27		
Period Audit Covered:	January 1, 2018 to December 31, 2019		
Preliminary Determination Issued:	September 10, 2020	Response Received	September 24, 2020
Final Determination Issued:	October 5, 2020	Response Received	November 4, 2020
Compliance-Monitoring:	Required	November 1, 2020 to June 30, 2021	with extension

Whereas, pursuant to Chapter 36, Sections 830(a) and 831(d)(2) and (5) of the New York City Charter (Charter), the Equal Employment Practices Commission (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 Bronx County District Attorney's Sexual Harassment Prevention and Response Practices; and

Whereas, pursuant to the audit, review, and evaluation of the Office of the Bronx County District Attorney's Sexual Harassment Prevention and Response Practices, the EEOC issued a Preliminary Determination, dated September 10, 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.
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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. 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.
21. 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.

22. 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.
23. 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.
24. 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.
25. 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.
26. 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).
27. 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 October 5, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, and 27; and

Whereas, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPCC assigned a monitoring period from November 1, 2020 to April 30, 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 November 4, 2020, the

entity issued a response to the EEPC's Final Determination; and

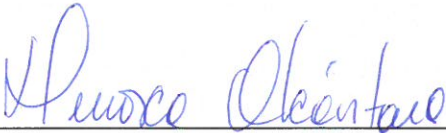
Whereas, in accordance with Charter Chapter 36, Section 832(c), the Office of the Bronx County District Attorney was monitored until July 7, 2021; and

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 District Attorney submitted a copy of a memorandum to staff dated July 7, 2021, which recognized the EEPC's audit and reiterated commitment to the Office of the Bronx County District Attorney's equal employment practices; Now Therefore,

Be It Resolved, that the Office of the Bronx County District Attorney 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 District Attorney Darcel D. Clark of Office of the Bronx County District Attorney.

Approved unanimously on July 22, 2021.



Minosca Alcantara
Commissioner/Mayoral Appointee



Elaine S. Reiss, Esq.
Commissioner/Mayoral Appointee

Vacant
Commissioner/City Council Appointee

Vacant
Commissioner/City Council Appointee



Aldrin Rafael Bonilla
Chair/Commissioner/Joint Appointee

Determination of Compliance

This

is hereby issued to

Office of the Bronx County District Attorney

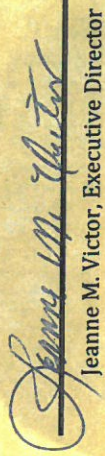
for successful implementation of 27 of 27 required corrective action(s),
thereby achieving compliance with the Equal Employment Practices Commission's
Sexual Harassment Prevention and Response Practices
from January 1, 2018 to this date.

In care of District Attorney Darcel D. Clark
and principal EEO Professional Ricardo Granderson

On this 22nd day of July in the year 2021,



Aldrin Rafael Bonilla, Chair



Jeanne M. Victor, Executive Director