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

Dear District Attorney Gonzalez:

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

### *Policy and Plan Requirements*

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

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

### Methodology

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

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

EEO Professionals designated for online interviews are assigned a three-week deadline to complete and return the PIQs. The EEPC’s PIQ(s)/requests were sent to the Office of the Kings County District Attorney on January 3, 2020; the completed PIQ(s) were returned on January 24, 2020. Supporting documentation was attached. Additional requests were not necessary.

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

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

### Description of the Agency

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 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. (Source: The Green Book, 4/2019). At the end of the period in review, the CEEDS Report: *Work Force Composition Summary* for the Office of the Kings County District Attorney (KCDA), attached as Appendix 1, showed that during the period in review, the agency head count was 1,163.

## 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.

✓ On August 27, 2018 and August 21, 2019, the District Attorney emailed all employees a memorandum entitled *EEO Compliance* that stated, "[a]s part of our commitment to building and preserving a workplace free of discrimination and sexual harassment, this Office is committed to ensuring strict adherence to the KCDA EEO Policy. This commitment includes affirming that all employees have a right to file a complaint of discrimination or sexual harassment with the EEO Office." Additionally, an October 2018 *Sexual Harassment Policy Statement* was contained within *The Kings County District Attorney's Office Equal Employment Opportunity Discrimination Policy and Complaint Procedures* and stated, "[a]s District Attorney, I view sexual harassment, by any applicant for employment or employee of this Office, as unacceptable conduct. . . Sexual harassment is strictly prohibited."

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.

✓ During the period in review, *The Kings County District Attorney's Office Equal Employment Opportunity Discrimination Policy and Complaint Procedures* (KCDA Employment Discrimination Policy, and its updates attached as Appendices 2, 3, 4, and 5) were comprised two documents: *The Kings County District Attorney's Office Equal Employment Opportunity Discrimination Policy* (hereinafter referred to as KCDA EEO Policy) and *The Kings County District Attorney's Office Equal Employment Opportunity Complaint Procedures* (hereinafter referred to as Complaint Procedures). The KCDA EEO Policy and Complaint Procedures contained the contact information (EEO title, office location and telephone extension) for the entity's principal EEO Professional and EEO Coordinator. The entity's Complaint Procedures contained contact information (EEO title, office title, Bureau, and telephone extension) for the entity's EEO Counselors and the contact information (office address and telephone number) for the local, state and federal agencies who investigate complaints against discrimination and sexual harassment. The KCDA EEO Policy and the Complaint Procedures contained the entity's procedures for the investigation of discrimination complaints. The entity's August 2018 and August 2019 *EEO Compliance* memoranda informed employees via email that "[t]he *KCDA Employment Discrimination Policy* can be found in the *Policies, Procedures and Rules of Conduct for Non-legal Employees* and in the *Policies and Regulations for Assistant District Attorneys* both of which are posted on the Office Intranet" and "on bulletin boards throughout the Office."

➤ The KCDA EEO Policy and the Complaint Procedures did not include or attach responsive procedures for the investigation of discrimination/sexual harassment complaints. Specifically, the KCDA EEO Policy and the Complaint Procedures did not include requirements to: 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, and 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; notify the complainant and respondent of a delay where a complaint investigation could not 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; 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. **Corrective Action Required.**



**NOTE:** The *EEO Compliance* memoranda reported the KCDA EEO Policy and the Complaint Procedures were contained within the entity's employee manuals (*Policies, Procedures and Rules of Conduct for Non-legal Employees* and *Policies and Regulations for Assistant District Attorneys*), however the entity's provided excerpts were incomplete. In addition, the entity reported but did not demonstrate that new employees signed an *Acknowledgement of Receipt of Policy* to document receipt of the KCDA EEO Policy, Complaint Procedures, and *EEO Compliance* memorandum. Subsequent to the period in review, screenshots indicated the posting of the KCDA EEO Policy and the Complaint Procedures to the entity's intranet site which the agency reported was accessible to all employees.

**Corrective Action #1:** 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.

✓ On July 12, 2018 and September 11, 2019, the Chief of Staff notified all employees via email of the requirement to complete the Department of Citywide Administrative Services' (DCAS) upcoming computer-based training entitled, *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace*. On August 10, 2018 and September 23, 2019, the Chief of Staff emailed rollout details for the aforementioned training, which included a link to access the training, a mandatory deadline for completion, and information on how to report sexual harassment complaints. Training materials indicated employees were to be trained on the prevention of sexual harassment as well as discrimination complaint procedures.

➤ The entity did not demonstrate that its training requirements were part of a training plan; or that it established and implemented a training plan for new and existing employees to ensure that all individuals who work within the entity, including managers and supervisors, received training on the prevention of sexual harassment as well as discrimination complaint procedures. Additionally, the entity did not demonstrate that its employees completed the required training during the period in review. **Corrective Action Required.**

**Corrective Action #2:** Establish and implement a training plan for new and existing employees to ensure that all individuals who work within the agency, including managers and supervisors, receive training on the prevention of sexual harassment as well as discrimination complaint and investigation procedures.

### III. Complaint and Investigation Procedures

**Summary of Complaint Activity:** The agency reported 16 internal and 4 external complaints were filed during the period in review.

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

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

✓ In response to the EEP's PIQs, the entity included a blank complaint intake form entitled, *KCDA Complaint of Discrimination*, which contained the following fields to be used to capture facts: "[w]hat is the alleged basis of discrimination?" (which included a checklist of listed classes protected against employment discrimination), "[w]hen/where did the alleged discrimination occur?", and "[s]pecifics of Claim, Name of person(s) who discriminated against you, When did the alleged discrimination occur? Where did it happen? Were there witnesses to the Discrimination? Did you report this to anyone?"

➤ Representative Complaint file Nos. 440, 443, 447, 448, and 454 did not contain a completed Complaint Intake Form, or a 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.**

**Corrective Action #3:** 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 *How to File an EEO Complaint* section of the Complaint Procedures stated, "[e]mployees who have knowledge of discriminatory acts committed in the Office but who wish to remain anonymous may telephone the EEO Office of the Coordinator."

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 *Discrimination and Harassment Complaint Procedures* section of the KCDA EEO Policy stated, "[t]hose accused of discrimination or harassment have a right to respond, in writing, to the allegations."

- Complaint file Nos. 440, 443, 447, 448, and 454 did not contain documentation that the 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 KCDA EEO Policy and the Complaint Procedures indicated the respondent's right to respond in writing, but did not include a requirement to serve the respondent with a notice of the complaint that includes the respondent's rights (to respond to the allegations and to be accompanied by a representative of his/her choice). (See §I.2 for associated corrective action).

**Corrective Action #4:** 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.

✓ Complaint file Nos. 440, 443, 447, 448, and 454 were not terminated, withdrawn or resolved by agreement of the parties or EEO Office; as a result, findings contained in this section reflect compliance of the KCDA EEO Policy and the Complaint Procedures. The *What Happens When an EEO Complaint is Filed* section of the Complaint Procedures stated, "[i]n appropriate cases, an attempt will be made to mediate a complaint with the goal of a voluntary resolution by all parties. The conciliation process is intended to be concluded within 45 working days from the time the complaint was filed."

**NOTE:** The KCDA EEO Policy and the Complaint Procedures did not include a requirement to issue/maintain written confirmation when an internal complaint/mediation is terminated, withdrawn or resolved by agreement of the parties or EEO Office. (See §I.2 for associated corrective action).

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

✓ Complaint file Nos. 440, 443, 447, 448, and 454 each contained handwritten and typed notes of words spoken and facts provided during each interview, including the date, time and location of each interview.

**NOTE:** The KCDA EEO Policy and the Complaint Procedures did not include a requirement to take thorough notes of words spoken and facts provided during each interview and to include those notes in the complaint file. (See §I.2 for associated corrective action).

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

✓ Complaint file Nos. 440, 448, and 454 each contained a conclusive report that was issued within 90 days of when the complaint was filed. Additionally, the *Investigation* section of the Complaint Procedures indicated that “[a]n investigation begins once an employee files a complaint.” The *Investigation* section of the Complaint Procedures also stated, “[a] confidential report of the findings will be drafted...This report shall be issued within 30 days of the taking of the original complaint wherever possible[.]”

➤ The conclusive reports for Complaint file Nos. 443 and 447 were issued more than 90 days after the date the respective complaints were filed. **Corrective Action Required.**

**NOTE:** The conclusive reports for Complaint file Nos. 448 and 454 were not issued within 30 days as required by the KCDA EEO Policy and Complaint Procedures. Additionally, the KCDA EEO Policy and the Complaint Procedures should clarify that the confidential report is the final conclusive report in an investigation.

**Corrective Action #5:** 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 conclusive reports for Complaint file Nos. 443 and 447 were issued more than 90 days after the date of the respective complaints, and the aforementioned complaint files did not contain notice to each complainant and respondent of the delay, the reason for the delay, and a projected time frame for completion of the report. **Correct Action Required.**

**NOTE:** The conclusive reports for Complaint file Nos. 440, 448, and 454 were issued within 90 days of the date the respective complaints were filed.

**NOTE:** The KCDA EEO Policy and the Complaint Procedures did not include requirements that in rare circumstances where a complaint investigation cannot commence immediately, or where a conclusive report cannot be issued within 90 days, that each complainant and respondent be notified of the delay, and that the complaint file specify the reason for the delay and a projected time frame for completion of the report. (See §1.2 for associated corrective action).

**Corrective Action #6:** 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.

✓ Complaint file Nos. 440, 443, 447, 448, and 454 each contained a conclusive report which included a summary of the allegations and responses, a summary of the procedural history of the investigation, a statement of the relevant facts gathered, a determination, and a recommendation. Complaint file Nos. 440, 443, 447, and 448 also contained documentation of review by the Chief of Staff (a direct report to the District Attorney).

➤ The entity did not demonstrate that the District Attorney reviewed the conclusive confidential report for Complaint file Nos. 440, 443, 447, 448, and 454; or that the Chief of Staff was approved by the District Attorney to review conclusive confidential reports on their behalf. In addition, the conclusive report in Complaint file No. 454 did not include documentation of the District Attorney or Chief of Staff's review. **Corrective Action Required.**

**NOTE:** Although the Complaint Procedures stated, "[a] *confidential report of the findings will be drafted...The EEO Officer will recommend corrective action to the District Attorney, whose decision is final[.]*" the KCDA EEO Policy and the Complaint Procedures did not include requirements 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 #7:** 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.

✓ In response to the EEPC's PIQs, the entity reported that the complaint files were kept securely in the principal EEO Professional's office to preserve the security of the complaint files and ensure that they may be located by the entity head, entity General Counsel, and other appropriate staff. Additionally, the KCDA EEO Policy stated, "[i]nformation contained in a formal complaint is kept as confidential as possible."

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.

✓ Complaint file Nos. 440, 443, 447, and 448 each demonstrated that the Chief of Staff reviewed the principal investigator's conclusive report and signed each determination, via writing or electronically, to indicate it had been reviewed and adopted.

➤ The entity did not demonstrate that the District Attorney reviewed the principal investigator's conclusive confidential report for Complaint file Nos. 440, 443, 447, 448, and 454; or that the Chief of Staff was approved by the District Attorney to review conclusive confidential reports on their behalf. In addition, Complaint file No. 454 did not contain documentation of review. **Corrective Action Required.**

**NOTE:** The KCDA EEO Policy and the Complaint Procedures did not include a requirement to establish and implement a policy whereby the entity head (or an approved direct report other than the General Counsel) issued a written/electronic determination adopting, rejecting, or modifying the recommended action of the principal investigator's conclusive report; and signed each determination, via writing or electronically, to indicate it has been reviewed or adopted. (See §1.2 for associated corrective action).

**Corrective Action #8:** 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.

✓ Complaint file Nos. 440 and 454 each contained a written notification to the complainant and respondent informing them of the conclusion and outcome of their complaint investigation. Complaint file Nos. 447 and 448 each contained a written notification to the complainant informing them of the conclusion and outcome of their complaint investigation. In addition, the *What Happens When an EEO Complaint is Filed* section of the entity's Complaint Procedures stated, "[t]he parties to a complaint will be advised in writing of the outcome by the EEO Officer or EEO Coordinator."

➤ The entity did not demonstrate that the complainant and respondent in Complaint file No. 443, and the respondents in Complaint file Nos. 447 and 448, were each notified in writing of the conclusion and outcome of the complaint investigation. **Corrective Action Required.**

**NOTE:** Complaint file Nos. 443 and 447 each contained additional written notifications of the conclusion and outcome of the complaint investigation, however the notices were written in a manner that did not clearly identify who received those notices.



**Corrective Action #9:** 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.

✓ Complaint file Nos. 440, 443, 447, 448, and 454 each contained a conclusive report that included a written determination of the outcome of the investigation and corrective action(s) taken as a result.

**NOTE:** The KCDA EEO Policy and the Complaint Procedures 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 §1.2 for associated corrective action).

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

**NOTE:** None of the complaint files submitted were transferred due to the filing of an external complaint; as a result, findings contained in this section reflect compliance of the KCDA EEO Policy and the Complaint Procedures. The KCDA EEO Policy and the Complaint Procedures 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).

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's *EEO Complaints Chart- 2018 Internal/External* and *EEO Complaints Chart- 2019 Internal/External* demonstrated the entity's complaint tracking and monitoring system. The following fields were used and could enable trend analyses of complaint activity: *EEO Complaint Parties, EEO Number or External, Internal or External, Date Investigation Initiated, Investigation Conducted By, Closing Memo Date/Position Summary Date, Resolution, Complaint Category, and Notes.*

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

- ✓ The General Counsel assisted the entity head in identifying and determining appropriate responses to sexual harassment and worked with the principal EEO Professional in the implementation of policies pertaining to sexual harassment, via the General Counsel's role as a Task Force Member to review and prepare the entity's 2018 NYC Agency Risk Assessment (see §IV.19 for *NYC Agency Risk Assessment* collaboration details).
- The entity did not demonstrate that, during the period in review, the General Counsel: 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 complaints; and was responsible for the investigation of, and response to, external sexual harassment complaints.  
**Corrective Action Required.**

**Corrective Action #10:** 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 partial-compliance with the standards for this subject area.**

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

- ✓ The entity provided its 2018 *NYC Agency Risk Assessment* which assessed the potential workplace risk factors that may be associated with sexual harassment, as required by Local Law 93 for Fiscal Years 2014-2018. The document was a collaboration between the General Counsel, principal EEO Professional, and Human Resources Director and was reviewed and endorsed by the District Attorney. The *NYC Agency Risk Assessment* identified potential barriers to employment opportunities related to sexual harassment as well as entity efforts to continue as a potentially remedying solution. One result the *NYC Agency Risk Assessment* identified was recruitment efforts would be continued to address disproportionate gender imbalances in units with a large proportion of a single-gender that it determined may have "*potential for increased risk of sexual harassment*" which have not been realized.
- The entity did not demonstrate that an annual review was conducted in 2019, that included a review of the number of sexual harassment complaints and the entity's employment practices, policies and programs to identify whether there are any barriers to employment opportunities that

may be related to sexual harassment and determine what, if any, actions are required to correct deficiencies. **Corrective Action Required.**

**Corrective Action #11:** 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.

✓ Employees were notified of the name and contact information for the principal EEO Professional via the *EEO Compliance* memoranda distributed on August 27, 2018 and August 21, 2019, the KCDA EEO Policy, and the Complaint Procedures. Sign in sheets for DCAS' five (5) day *Diversity and Equal Employment Opportunity Basic Training* (November 10, 2014 - November 21, 2014), and a letter from Cornell University's School of Industrial and Labor Relations (ILR) verifying completion of the *Cornell University, ILR Certificate EEO Professionals* (2016), demonstrated 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, the principal EEO Professional also completed EEO trainings provided by the Equal Employment Opportunity Commission (EEOC) Institute and DCAS between 2016 and 2019, including: EEOC Institute's *New York City Technical Assistance Seminar* (2016), *New York Two-Day EEO Seminar and New York EEO Seminar* (2017), and *New York Technical Assistance Program* (2018); and DCAS's *LGBT: Are You Ready For The "T"- Creating An Inclusive Culture For Transgender* (2016), *Everybody Matters, Diversity & Inclusion* computer-based training (2016), *Reasonable Accommodation Procedural Guidelines* (in 2017), *Equal Employment Opportunity (EEO)* computer-based training (2017), *Sexual Harassment Prevention Training - Train the Trainer* (2018), *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* (2018 and 2019), and *IgbTq: The Power of Inclusion* (2019).

**NOTE:** Subsequent to the period in review, the entity indicated the principal EEO Professional retired, and identified the Deputy Chief of Staff as the interim principal EEO Professional. However, 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.**

**Corrective Action #12:** Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

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

✓ During the period in review, the principal EEO Professional was provided opportunities for continuing education and support staff to meet EEO obligations. The entity's *Equal Employment Opportunity Organizational Chart* illustrated that in addition to the principal EEO Professional, the entity had an EEO Coordinator and 10 EEO Counselors. (See §V.20 for principal EEO Professional training information and §V.22 for EEO support staff responsibilities).

**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 1,163 employees served by the entity's EEO Office, which was comprised of twelve (12) EEO professionals: a principal EEO Professional, EEO Coordinator, and ten (10) EEO Counselors. The entity's *Equal Employment Opportunity Organizational Chart* illustrated the entity's EEO structure, included the office title and work unit of each EEO professional, and demonstrated the EEO professionals were appointed from different levels and locations within the organizational structure. The organizational charts also described "[t]he EEO Officer and Coordinator work in tandem to interview EEO complainants, witnesses, and targets. EEO Counselors are available to fill-in in the event of a conflict, vacation, or direct outcry by victim."

The entity's EEO Professionals' responsibilities under the EEO Policy were listed in *The EEO Coordinator* section of the Complaint Procedures, which stated, "[t]he EEO Coordinator, also administers the EEO Program under the EEO Officer's [principal EEO Professional's] Guidance. [The EEO Coordinator] is responsible for conducting EEO investigations and reports to the EEO Officer...The EEO Counselors listed below are available to receive complaints and make the appropriate referral regarding allegations of violations of the policy and report them to the EEO Officer. However, employees may take their complaint directly to the EEO Officer or EEO Coordinator. EEO Counselors may be asked to participate in the investigative portion of this process."

Training certificates demonstrated the EEO Coordinator completed the following trainings: EEOC Institute's *New York City Technical Assistance Seminar* (2-day training) in 2016 and *New York City Technical Assistance Seminar* (2-day training) in 2018, and Cornell ILR – *EEO Professionals Studies Certificate* (2016). A DCAS training report indicated the EEO Coordinator completed following DCAS

provided trainings: in 2017, *CDEEO Monthly Best Practices Meeting* and *Corruption Prevention Awareness Online Training*; in 2018, *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* and *Sexual Harassment Prevention: Train the Trainer*; in 2019, *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace*, *Disability Etiquette: Inclusive Workplace Strategies For People With Disabilities*, and *IgbTq: The Power of Inclusion*; and in 2020, *EEO Awareness*. The DCAS training report also indicated the EEO Coordinator completed the EEOC Institute's *New York Technical Assistance Program* training in 2018.

A report of completed DCAS provided trainings indicated that four (4) EEO Counselors completed *Diversity and Equal Employment Opportunity Basic Training* in 2016 and nine (9) EEO Counselors completed trainings in *EEO Awareness* and *Sexual Harassment Prevention: What to Know About Unlawful and Inappropriate Behaviors in the Workplace* between 2018 and 2020. In addition, the training report indicated eight (8) EEO Counselors completed *IgbTq: The Power of Inclusion* training in 2018 and 2019, and two (2) EEO Counselors completed *Structured Interviewing and Unconscious Bias* training in 2018.

- The entity did not demonstrate its ten (10) EEO Counselors were trained in EEO laws and their responsibilities under the EEO Policy, including EEO complaint intake and investigation procedures.  
**Corrective Action Required.**

**Corrective Action #13:** 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 principal EEO Professional worked cooperatively and closely with the General Counsel in the implementation of policies and procedures concerning EEO and sexual harassment when conducting the *NYC Agency Risk Assessment*, which identified potential barriers to employment opportunities within the entity as well as entity efforts to continue to practice as a potentially remedying solution (see §IV.19 for details).

**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 entity's *Job Description for the Principal EEO Professional Position* document detailed many of the principal EEO Professional's responsibilities, including: "[The principal EEO Professional is] responsible for supervising the EEO related activities of the EEO Counselors and ensuring that they



*have received the necessary training and are kept apprised of changes in the law.” The Equal Employment Opportunity Organizational Chart also illustrated that the principal EEO Professional was responsible for supervising the EEO Coordinator and EEO Counselors. The Job Description for the Principal EEO Professional Position document outlined the principal EEO Professional is “... responsible for remaining updated on any and all changes on the law of EEO and where necessary for updating the Office’s EEO policy and procedures. The EEO Officer is tasked with setting training objectives that ensure that all employees receive EEO Sexual Harassment and Diversity Inclusion training. The EEO Officer must ensure that all employees received a copy of the EEO Policy as well as the Complaint Procedures. The EEO Officer must provide the Policy and Procedures to applicants upon request. The EEO Officer is responsible for ensuring that the Agency EEO Policy and Complaint Procedures are posted at all Agency locations. It is the responsibility of the EEO Officer to provide these documents in alternative formats upon request.”*

Managers, supervisors and human resources professionals were provided with sexual harassment prevention training access instructions, information and guidance on issues pertaining to sexual harassment by the *How To Report Sexual Harassment* section of the Chief of Staff’s August 10, 2018 and September 23, 2019 sexual harassment prevention training emails, that stated, “[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 *Where to File an EEO Complaint* section of the Complaint Procedures established the principal EEO Professional as having “overall responsibility for the administration of the EEO Program, including conducting EEO investigations” and the *Investigation* section of the Complaint Procedures stated investigations were to begin promptly, “[a]n investigation will be conducted by the EEO Coordinator or the EEO Officer. The Investigation begins once an employee files a complaint.”

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 *Job Description for the Principal EEO Professional Position* document, the Complaint Procedures, and the entity’s *Equal Employment Opportunity Organizational Chart* illustrated that the principal EEO Professional reported directly to the Chief of Staff, who is a direct report of the agency head. The *Where to File an EEO Complaint* section of the Complaint Procedures, stated the principal EEO Professional “reports directly to the District Attorney or his designee” and the *Job Description for the Principal EEO Professional Position* document reiterated, “[t]he KCDA Principal EEO Professional, EEO Officer, reports to the Agency Head or to a direct report.”

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.



- ✓ An *EEO Meeting Agenda* dated August 24, 2018 demonstrated the Chief of Staff, principal EEO Professional and EEO Coordinator conducted a review of the entity's sexual harassment training, policies and procedures.
- The entity did not demonstrate that during the period in review, documentation was maintained regarding directives or decisions between the Chief of Staff and the principal EEO Professional that impacted the administration and operation of programs, policies or procedures concerning sexual harassment. **Corrective Action Required.**

**Corrective Action #14:** 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 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.

✓ Managers and supervisors were held accountable for enforcing the entity's sexual harassment prevention policies and complaint procedures through the *Sexual Harassment Policy Statement* within the KCDA EEO Policy which stated, "[m]anagers, supervisors and human resources personnel must promptly notify the agency EEO Officer if they receive a complaint alleging sexual harassment or if they observe, learn about, or suspect that any violation of the Policy has occurred. Sanctions will be enforced against managers or supervisors who knowingly allow such behavior to continue." Emailed memorandums sent from the Chief of Staff to "[a]ll Managers" on August 24, 2018, September 19, 2019, and November 1, 2019 stated, "it is mandatory that managers meet with their staff on an annual basis and emphasize the agency's commitment to its EEO Policies. During these annual meetings, the manager must also affirm the right of employees to file a discrimination complaint with the EEO Office" and further stated, "[p]lease utilize the attached sign-in sheet at these annual meetings and submit them[.]"

Additionally, the entity provided two sample evaluation forms used to document the aforementioned managerial expectation. A sample 2019 *Trial Bureau Supervisor Evaluation Form* contained the expectations for managers and supervisors, including "[a]s required, holds annual meetings with all staff under his/her supervision to emphasize the agency's continued commitment to its EEO policies. During these meetings, the manager also affirms the right of employees to file a discrimination complaint with the EEO Office. Sign-in sheets are utilized at these meetings and provided to the EEO Officer." The "EEO Policies and Procedures" section of a representative completed NYC Standard Performance Doc for ADM Manager-NON-MGRL FRM M1/M2 from the period in review established the following expectations "1. Demonstrate support for and enforce EEO policies and procedures and apply equal employment opportunity in all employment activities. 2. Build and maintain a non-discriminatory, harassment-free workplace. 3. EEO issues and complaints are immediately communicated to the EEO Officer, Coordinator or Counselor. 4. Agency and City-wide EEO policies are

consistently applied. 5. EEO materials are disseminated to employees as well as compliance with all computer based trainings. 7. Conduct annual mandated meetings and submit required attendance sheet.”

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 provided a representative managerial performance evaluation, *2019 Trial Bureau Supervisor Evaluation Form*, which contained the following expectations for managers and supervisors, “[a]ll required EEO training is completed in a timely fashion and ensures all employees in unit/bureau are in compliance. Employment decisions (i.e.: promotions, transfers, etc.), are based on merit and equal consideration; treats others in an equitable, non-discriminatory manner. As required, holds annual meetings with all staff under his/her supervision to emphasize the agency’s continued commitment to its EEO policies. During these meetings, the manager also affirms the right of employees to file a discrimination complaint with the EEO Office. Sign-in sheets are utilized at these meetings and provided to the EEO Officer.” The ratings for the standard were “[s]ignificantly Exceeds Standards, Exceeds Standards, Meets Standards, Below Standards, Far Below Standards.”

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

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

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

➤ During the period in review, the entity did not submit Annual Plans of measures or programs to provide equal employment opportunity, and quarterly reports on efforts to implement the Plan within 30 days following each quarter. **Corrective Action Required.**

**Corrective Action #15:** 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.

30. Upon the EEPCC’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 EEPCC’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 Kings County District Attorney has 16 required corrective action(s) at this time. This includes the aforementioned final action.

**Conclusion**

Pursuant to Charter Chapter 36, the Office of the Kings 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 Kings 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.

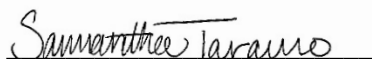
*(Optional Conference)* If requested, at the Optional Conference the EEPC will discuss the immediate steps that should be taken to correct outstanding areas of non-compliance and address questions regarding the Office of the Kings County District Attorney's implementation of the prescribed corrective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

*(No Response Option)* If the Office of the Kings 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 Kings 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,



Samantha Tarallo, EEO Program Analyst

Approved by,



Charise L. Terry  
Executive Director

c: Nicole Chavis, Interim principal EEO Professional, Office of the Kings County District Attorney  
William B. Peterson, Manager, Labor Relations Analysis and Audit, EEPC

**Appendix – 1**

Office of the Kings 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  
QUARTER 2 YEAR 2020 AGENCY 903 DISTRICT ATTORNEY-KINGS COUNTY

PAGE: 279  
REPORT: EBEP210

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS COUNTY  
EEO JOB GROUP : 001 ADMINISTRATORS

TITLE CODE	TITLE DESCRIPTION	MALE						FEMALE						OTHER	TOTAL EMP
		WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
60800	DIRECTOR OF PUBLIC INFORMA	1	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		100.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS 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		
10026	ADMINISTRATIVE STAFF ANALY	0	0	0	0	0	0	0	1	0	0	0	0	0	1
10050	COMPUTER SYSTEMS MANAGER	1	0	0	0	0	0	0	0	0	0	0	0	0	1
10103	EXECUTIVE ASSISTANT	1	3	0	1	0	0	2	2	3	0	0	0	0	12
10135	ADMINISTRATIVE CHIEF	0	0	0	0	0	0	0	1	0	0	0	0	0	1
13398	EXECUTIVE PROGRAM SPECIALI	0	0	0	0	0	0	0	1	0	0	0	0	0	1
30114	ASSISTANT DISTRICT ATTORNE	154	28	32	19	0	12	154	48	33	25	1	22	0	528
3083A	SUPERVISING RACKETS INVEST	3	2	0	0	0	0	0	0	0	0	0	0	0	5
83008	ADMINISTRATIVE PROJECT MAN	1	0	0	0	0	0	0	3	0	0	0	0	0	4
EEO JOB GROUP TOTAL.....:		160	33	32	20	0	12	156	56	36	25	1	22	0	553
		28.92	5.97	5.79	3.62	0.00	2.17	28.21	10.13	6.51	4.52	0.18	3.98	0.00	100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS 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		
05338	PRINCIPAL ACCOUNTANT INVES	1	0	0	0	0	0	0	0	0	0	0	0	0	1
1002C	ADMINISTRATIVE MANAGER NON	2	0	3	1	0	0	2	2	0	0	0	1	0	11
1002D	ADMINISTRATIVE STAFF ANALY	1	0	0	0	0	0	0	0	0	0	0	0	0	1
1002E	ADMINISTRATIVE STAFF ANALY	0	0	0	0	0	0	0	0	1	0	0	0	0	1
12158	PROCUREMENT ANALYST	0	0	0	0	0	0	0	1	0	0	0	0	0	1
13401	STRATEGIC INITIATIVE SPECI	0	1	0	0	0	0	0	1	0	0	0	0	0	2
30854	SUPERVISING ACCOUNTANT INV	1	1	1	0	0	0	2	1	1	0	0	0	0	7
40510	ACCOUNTANT	0	0	0	0	0	0	0	0	0	1	0	0	0	1
54742	CONFIDENTIAL STRATEGY PLAN	0	1	0	0	0	1	0	0	0	0	0	0	0	2
8297A	ADMINISTRATIVE PROCUREMENT	0	0	0	0	0	0	0	0	1	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		5	3	4	1	0	1	4	5	3	1	0	1	0	28
		17.86	10.71	14.29	3.57	0.00	3.57	14.29	17.86	10.71	3.57	0.00	3.57	0.00	100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS 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 903 DISTRICT ATTORNEY-KINGS COUNTY

PAGE: 280  
REPORT: EBEP210

EEO JOB GROUP : 004 SCIENCE PROFESSIONALS

		MALE						FEMALE						OTHER	TOTAL EMP
TITLE CODE	TITLE DESCRIPTION	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
13611	COMPUTER ASSOCIATE (TECHNI	2	1	0	0	0	0	0	1	0	0	0	0	0	4
13631	COMPUTER ASSOCIATE (SOFTWA	0	1	0	0	0	0	0	0	0	0	0	0	0	1
13632	COMPUTER SPECIALIST (SOFTW	2	0	0	1	0	0	0	0	0	0	0	0	0	3
13643	CERTIFIED IT DEVELOPER (AP	1	0	0	0	0	0	0	0	0	1	0	0	0	2
21744	CITY RESEARCH SCIENTIST (A	0	0	0	0	0	0	1	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		5	2	0	1	0	0	1	1	0	1	0	0	0	11
		45.46	18.18	0.00	9.09	0.00	0.00	9.09	9.09	0.00	9.09	0.00	0.00	0.00	100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS COUNTY  
EEO JOB GROUP : 007 SOCIAL WORKERS

		MALE						FEMALE						OTHER	TOTAL EMP
TITLE CODE	TITLE DESCRIPTION	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN	WHITE	BLACK	HISPN	ASIAN PACIS	AM IND ALASK	UN- KNOWN		
52613	SOCIAL WORKER	1	0	0	0	0	0	5	0	3	1	0	0	0	10
EEO JOB GROUP TOTAL.....:		1	0	0	0	0	0	5	0	3	1	0	0	0	10
		10.00	0.00	0.00	0.00	0.00	0.00	50.00	0.00	30.00	10.00	0.00	0.00	0.00	100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS COUNTY  
EEO JOB GROUP : 008 LAWYERS

		MALE						FEMALE						OTHER	TOTAL EMP
TITLE CODE	TITLE DESCRIPTION	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	1	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		0	0	1	0	0	0	0	0	0	0	0	0	0	1
		0.00	0.00	100.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS COUNTY  
EEO JOB GROUP : 010 TECHNICIANS

		MALE						FEMALE						OTHER	TOTAL EMP
TITLE CODE	TITLE DESCRIPTION	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	1	0	0	0	3	2	2	0	0	0	0	9
90622	MEDIA SERVICES TECHNICIAN	2	5	0	2	0	0	0	0	1	0	0	0	0	10
EEO JOB GROUP TOTAL.....:		2	6	1	2	0	0	3	2	3	0	0	0	0	19
		10.52	31.58	5.26	10.53	0.00	0.00	15.79	10.53	15.79	0.00	0.00	0.00	0.00	100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS COUNTY  
EEO JOB GROUP : 012 CLERICAL SUPERVISORS

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 903 DISTRICT ATTORNEY-KINGS COUNTY

PAGE: 281  
REPORT: EBEP210

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	1	0	1	0	0	0	2	7	1	1	0	0	0	13
EEO JOB GROUP TOTAL.....:		1 7.70	0 0.00	1 7.69	0 0.00	0 0.00	0 0.00	2 15.38	7 53.85	1 7.69	1 7.69	0 0.00	0 0.00	0 0.00	13 100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS 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		
10115	OFFICE ASSISTANT	1	0	0	0	0	0	0	0	0	0	0	0	0	1
10212	REPORTER/STENOGRAPHER (DA)	3	0	1	0	0	0	11	3	1	1	0	0	0	20
10251	CLERICAL ASSOCIATE	2	1	1	0	0	0	1	2	3	1	0	0	0	11
10252	SECRETARY	0	0	0	0	0	0	1	4	0	1	0	0	0	6
EEO JOB GROUP TOTAL.....:		6 15.80	1 2.63	2 5.26	0 0.00	0 0.00	0 0.00	13 34.21	9 23.68	4 10.53	3 7.89	0 0.00	0 0.00	0 0.00	38 100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS 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		
30832	SUPERVISING RACKETS INVEST	5	2	1	0	0	0	0	2	1	0	0	0	0	11
30836	CHIEF RACKETS INVESTIGATOR	1	0	0	0	0	0	0	0	0	0	0	0	0	1
EEO JOB GROUP TOTAL.....:		6 50.00	2 16.67	1 8.33	0 0.00	0 0.00	0 0.00	0 0.00	2 16.67	1 8.33	0 0.00	0 0.00	0 0.00	0 0.00	12 100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS 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	6	3	1	0	0	0	1	5	5	1	0	0	0	22
30831	SENIOR RACKETS INVESTIGATO	13	9	10	1	1	0	0	3	2	0	0	1	0	40
70810	SPECIAL OFFICER	0	0	1	0	0	0	0	1	0	0	0	0	0	2
EEO JOB GROUP TOTAL.....:		19 29.70	12 18.75	12 18.75	1 1.56	1 1.56	0 0.00	1 1.56	9 14.06	7 10.94	1 1.56	0 0.00	1 1.56	0 0.00	64 100.00

AGENCY CODE : 903 DISTRICT ATTORNEY-KINGS COUNTY  
EEO JOB GROUP : 031 PARA PROFESSIONAL OCCUPATIONS

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 903 DISTRICT ATTORNEY-KINGS COUNTY

PAGE: 282  
 REPORT: EBEP210

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		
56056	COMMUNITY ASSISTANT	12	20	10	3	0	2	5	25	9	1	0	1	0	88
56057	COMMUNITY ASSOCIATE	19	36	21	7	0	7	30	74	53	8	0	7	0	262
56058	COMMUNITY COORDINATOR	12	7	3	0	0	0	11	20	6	1	0	3	0	63
EEO JOB GROUP TOTAL.....:		43	63	34	10	0	9	46	119	68	10	0	11	0	413
		10.43	15.25	8.23	2.42	0.00	2.18	11.14	28.81	16.46	2.42	0.00	2.66	0.00	100.00
<hr/>															
AGENCY TOTAL.....:		249	122	88	35	1	22	231	210	126	43	1	35	0	1163
		21.40	10.49	7.57	3.01	0.09	1.89	19.86	18.06	10.83	3.70	0.09	3.01	0.00	100.00

## **Appendix – 2**

Office of the Kings County District Attorney

*The Kings County District Attorney's Office Equal Employment Opportunity  
Discrimination Policy and Complaint Procedures*

January 2020

**THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

**Equal Employment Opportunity**

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**Discrimination Policy  
and  
Complaint Procedures**







**THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

**Eric Gonzalez**  
District Attorney

**Equal Employment Opportunity**

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**Discrimination Policy**

**District Attorney Eric Gonzalez**  
**Employment Discrimination Policy Statement**

The Kings County District Attorney's Office is an Equal Opportunity Employer. As District Attorney, I reaffirm that it is the policy of this Office to maintain fair employment practices at all times for all its members and applicants for employment and to comply with Federal, State and City anti-discrimination laws. This policy extends to everyone who works within the office or its workplaces, those who seek employment within the office, as well as recipients of program services administered by the KCDA. No employee may retaliate against or harass any person filing a complaint or cooperating in the investigation of a complaint. Such retaliation or harassment is unlawful and will be cause for disciplinary action.

The Office acknowledges the right of all vendors, contractors and bidders, business owners, their managers and employees, to be treated fairly and equally, based on merit and ability and free from discrimination based on the protected status factors listed below. It is the expectation of the Office that all parties will conduct themselves in accordance with the NYC Human Rights Law and the Sexual Harassment Policy of the Office or risk being denied access to any Office facilities.

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**General Anti-Discrimination Protections**

Federal, State and/or City laws prohibit employment discrimination based on:

- Race
- Color
- National Origin (including Alienage, Ancestry and Citizenship Status)
- Religion
- Creed
- Age (18 and over)
- Disability
- Sex
- Gender (including Sexual Harassment<sup>1</sup>; Pregnancy and Gender Identity<sup>2</sup>)
- Sexual Orientation
- Marital Status
- Domestic Partnership Status
- Genetic Predisposition or Carrier Status
- Military Status
- Status as a Victim of Domestic Violence, Sex Offense or Stalking

<sup>1</sup> Sexual Harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender.

<sup>2</sup> Gender Identity 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.

- Caregiver Status<sup>3</sup>
- Salary History<sup>4</sup>
- Unemployment Status
- Consumer Credit History
- Familial Status<sup>5</sup>
- Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.
- Sexual and Reproductive Health Decisions<sup>6</sup>

In addition to those persons who fall within one of the protected groups, those who are “perceived” to be within one of the categories, or who have a “known relationship or association” with someone who is, or is perceived to be, within one of the categories, are also protected.

**The laws prohibit discrimination, which affects:**

- Hiring
- Selection Criteria
- Recruitment
- Salary and Benefits
- Training
- Termination
- Assignments
- Evaluations
- Transfers
- Promotions
- Working Conditions
- Leaves of Absence
- Discipline
- Other terms and conditions of employment

<sup>3</sup> 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.

<sup>4</sup> Salary History includes the applicant's current or prior wage, benefits or other compensation. 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.

<sup>5</sup> 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.

<sup>6</sup> 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.



## **Sexual Harassment Policy Statement**

The Kings County District Attorney's Office is an equal opportunity employer. The KCDA Equal Employment Opportunity (EEO) Policy, prohibits discrimination based on Race, Color, National Origin, Religion, Age, Disability, Sex and numerous other protected classes.

Sexual harassment is a form of employment discrimination prohibited by the EEO Policy and law. As District Attorney, I view sexual harassment, by any applicant for employment or employee of this Office, as unacceptable conduct. All KCDA employees should be familiar with the EEO Policy's protections against sexual harassment. The EEO Policy incorporates the protection provided by federal, state and local laws and implements them by providing for disciplinary sanctions to be imposed on employees who engage in sexual harassment against other employees, applicants for employment, or non-employees such as contractors, subcontractors, vendors or consultants in our workplace.

Federal guidelines define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the 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 purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." Under the New York City Human Rights Law, verbal or physical conduct that treats a person "less well" because of gender is unlawful.

Sexual harassment may involve individuals of the same or different genders. A broad range of conduct by supervisors and co-workers may constitute sexual harassment, including, but not limited to, making remarks or gestures or displaying pictures that are sexually suggestive; engaging in verbal banter, abuse or harassment of a sexual nature; requesting – directly or subtly – sexual favors; and subjecting another person to unwelcome touching, patting, pinching or other contact.

**Sexual harassment is strictly prohibited. Employees who violate this policy are subject to discipline, including termination. Persons who violate this policy may also be subject to civil damages or criminal penalties.**

The KCDA policy prohibiting sexual harassment does not forbid consensual social relationships between employees. But it does prohibit

gender-based conduct that is unwanted or creates an intimidating and hostile work environment.

Managers, supervisors and human resources personnel must promptly notify the agency EEO Officer if they receive a complaint alleging sexual harassment or if they observe, learn about, or suspect that any violation of the Policy has occurred. Sanctions will be enforced against managers or supervisors who knowingly allow such behavior to continue. Managers and supervisors should encourage subordinates to consult with the EEO Officer, the EEO Coordinator or any of the EEO Counselors.

The Office urges anyone covered by the KCDA EEO Policy who believes he or she has been subjected to sexual harassment or any unwelcome sexual attention to report the conduct as soon as possible to a supervisor or manager or to the KCDA EEO Officer, Nancy Laxer, who may be contacted at 718-250-2068 (room number 1920) or to the KCDA EEO Coordinator, Cynthia Aker, who may be contacted at 718-250-2095 (room number 1938) or to any of the EEO Counselors listed on the KCDA INTRANet. Complaints can also be filed with outside agencies as described in the EEO Complaint Procedures, posted on bulletin boards throughout the agency and on the KCDA INTRANet.

Complaints of sexual harassment will be handled under the KCDA EEO Policy posted on the KCDA INTRANet.

All inquiries, complaints and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept as confidential as possible. All complaints will be impartially and fairly investigated. Investigations will be completed as soon as possible. The complainant, any witnesses and the respondent will all be provided with written notification of the results of the investigation.

No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Retaliation or harassment is unlawful and subject to disciplinary action.

**Eric Gonzalez  
District Attorney  
October, 2018**



## **Disabilities**

The Americans with Disabilities Act (Act) prohibits discrimination against qualified individuals with disabilities. As District Attorney, I affirm that I will comply with the Act to ensure that reasonable accommodations will be made for a person with a "disability" who is otherwise qualified to perform the essential functions of the job for which he or she has applied or presently holds, unless providing such accommodation would impose an undue hardship.

A "disability" under the Act means "a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment," Title 42, Chapter 126 U.S.C. § 12102(1). By "reasonable accommodation" the Act describes reasonable accommodation as being:

- making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices ... the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Title 42, Chapter 126 U.S.C. § 12111(9).

A full text of the Americans with Disabilities Act, and materials concerning its interpretation, can be obtained from the EEO Officer, Room 1920 or the EEO Coordinator, Room 1938. Employees who believe they are covered by the definition and who wish to identify themselves so that reasonable accommodations may be made may contact the EEO Officer or the EEO Coordinator.

### **Issues Related to Disabilities**

Cynthia Aker is the 55-a Coordinator and is responsible for ensuring that the Office complies with laws designed to protect disabled employees.

### **Temporary or Permanent Accommodations**

The law requires that reasonable accommodations be made for disabled employees who are capable of performing the essential functions of the job in question unless providing such accommodation would impose an undue hardship. The law also requires that reasonable accommodations be made for employees' religious observances. Any employee who wishes to request an accommodation should contact Ms. Laxer or Ms. Aker.



**Executive Order No. 16 - Single Sex Bathroom Policy**

As of March 7, 2016, all city agencies are now required to ensure that city employees and members of the public have access to single-sex facilities such as bathrooms and locker rooms in city buildings without being required to show identification, medical documentation or any proof of gender identity.

**Discrimination and Harassment Complaint Procedures**

It is the policy of the Office to resolve all complaints of discrimination and harassment promptly and in accordance with the governing law. Employees are urged to follow the complaint procedure whenever they have a complaint or are aware of a problem involving discrimination or harassment within the office. Those accused of discrimination or harassment have a right to respond, in writing, to the allegations.

**Eric Gonzalez  
District Attorney  
October, 2018**



## **THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

### **Equal Employment Opportunity**

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### **Complaint Procedures**

**Eric Gonzalez**

District Attorney



**The following pages include:** When, where and how to file an EEO Complaint, including contact information for the KCDA EEO Officer, EEO Coordinator and EEO Counselors; the process once a complaint is filed; other agencies outside of KCDA where an EEO complaint can be filed; and the KCDA EEO complaint form.



### **When to File an EEO Complaint**

**A.** An EEO complaint should be filed if an employee believes they have been discriminated against by a manager, supervisor or another employee because of:

- Race
- Color
- National Origin (including Alienage, Ancestry and Citizenship Status)
- Religion
- Creed
- Age (18 and over)
- Disability
- Sex
- Gender (including Sexual Harassment; Pregnancy and Gender Identity)
- Sexual Orientation
- Marital Status
- Domestic Partnership Status
- Genetic Predisposition or Carrier Status
- Military Status
- Status as a Victim of Domestic Violence, Sex Offense or Stalking
- Caregiver Status
- Salary History
- Unemployment Status
- Consumer Credit History
- Familial Status
- Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.
- Sexual and Reproductive Health Decisions

**B.** An employee should file a complaint if they feel that they have been sexually harassed by a manager, supervisor or another employee.

**C.** An employee should file a complaint if they believe that a manager, supervisor or another employee has harassed them or retaliated against them because they filed a discrimination complaint or cooperated in the investigation of a complaint.

### **Federal, State and City law prohibits the following types of discrimination:**

- Discriminatory treatment of employees in hiring, assignments, working conditions, salary and benefits, performance evaluations, promotions, training, transfers, discipline, terminations and any other terms and conditions of employment.
- Policies that have a disproportionate impact on a group protected by law, unless they are justified by business necessity.
- Failure to make a reasonable accommodation for an employee with a disability or for an employee's religious observance.
- Discriminatory harassment, intimidation, ridicule or insults.

## Where to File an EEO Complaint

### **The Equal Employment Opportunity Officer:**

Nancy E. Laxer, the Executive Assistant District Attorney for Administration, is the EEO Officer. She has overall responsibility for the administration of the EEO Program, including conducting EEO investigations, and reports directly to the District Attorney or his designee. She may be contacted at 250-2068, Room 1920.

### **The EEO Coordinator:**

Cynthia Aker, the EEO Coordinator, also administers the EEO Program under the EEO Officer's guidance. Ms. Aker is responsible for conducting EEO investigations and reports to the EEO Officer. She may be contacted at 250-2095, Room 1938.

The EEO Counselors listed below are available to receive complaints and make the appropriate referral regarding allegations of violations of the policy and report them to the EEO Officer. However, employees may take their complaint directly to the EEO Officer or EEO Coordinator. EEO Counselors may be asked to participate in the investigative portion of this process.

NAME	TITLE	BUREAU	EXTENSION
Melinda Alexis-Hayes	Special Counsel For Public Engagement	Executives	x2213
Stephanie Green-Jones	Supervising Detective Investigator (Trials)	Detective Investigators	X2909
Michelle Kaminsky	Bureau Chief	Domestic Violence	X3641
Natasha Low	Unit Chief	Young Adult Court	X3778
Aneudy Mata	Paralegal Supervisor	Trial Bureau Green	X2118
Kin Wang Ng	Bureau Chief	Trial Bureau Red	X3744
Lisa Perlman	Senior Assistant District Attorney	Conviction Review Unit	X4843
Gregory Thomas	Deputy Director	Crime Strategies Unit	X3267
Karla D. Watson	Deputy Bureau Chief	Trial Bureau Red	X2105
Fran Weiner	Director of Legal Training	Executives	X3162



### **How to File an EEO Complaint**

All employees have the right to meet with the EEO Officer, EEO Coordinator, or an EEO Counselor to discuss their complaint. If possible, employees should obtain approval from their supervisor to leave their work site in order to meet with the EEO Officer, Coordinator or Counselor during their shift, but they are not required to inform their supervisor of the subject of the meeting. Supervisors may not unreasonably deny employees permission to attend the meeting.

Arrangements will be made to meet with the employee off-premises when necessary to ensure confidentiality. At an employee's request, appointments can be scheduled before or after office hours, or during an employee's lunch period. A complaint may be filed in person, by email, telephone or in writing with any member of the EEO staff.

Employees who have knowledge of discriminatory acts committed in the Office but who wish to remain anonymous may telephone the EEO Officer or the Coordinator. In such cases the EEO Officer or Coordinator will take such follow-up action as may be necessary. Employees must understand that the cooperation of witnesses may be needed if any disciplinary action is to be taken to rectify a problem of discrimination or sexual harassment.

## **What Happens When an EEO Complaint is Filed?**

All EEO complaints will be handled under the direction of the EEO Officer. The EEO Officer, Coordinator and Counselors will treat all complaints confidentially. Information obtained from the complainant will not be discussed with other employees except as necessary to investigate and resolve the complaint.

The EEO Coordinator will interview the complainant to find out the details of the complaint and will discuss with the complainant the options for handling the complaint. These options may include:

- (1) further actions the employee could take on his or her own behalf;
- (2) conciliation by the EEO Officer;
- (3) investigation by the EEO Officer, Coordinator and/or Counselor; and
- (4) the filing of a formal complaint with an outside agency, such as the NYC Commission on Human Rights.

If it appears that the complaint does not involve an EEO problem, the EEO Coordinator may refer the employee to the appropriate personnel for assistance.

**Conciliation:** In appropriate cases, an attempt will be made to mediate a complaint with the goal of a voluntary resolution by all parties. The conciliation process is intended to be concluded within 45 working days from the time the complaint is filed.

**Investigation:** An investigation will be conducted by the EEO Coordinator or the EEO Officer. The investigation begins once an employee files a complaint. The complaint must include the allegations, which form the basis of the complaint, and a statement of the relief sought.

A confidential report of the findings will be drafted. If the EEO Officer concludes on the basis of the investigation that discrimination has occurred, she shall recommend appropriate corrective action. This report shall be issued within 30 days of the taking of the original complaint wherever possible.



The EEO Officer will recommend corrective action to the District Attorney, whose decision is final. Corrective action may include disciplinary measures such as counseling, formal reprimand, transfer, demotion, the filing of disciplinary charges or termination. Disciplinary measures shall be taken in accordance with any applicable provisions of law, rules and regulations and collective bargaining agreements.

The parties to a complaint will be advised in writing of the outcome by the EEO Officer or EEO Coordinator. Written notice will be given to the parties either by first class mail, return receipt requested or delivered by hand. All parties will be asked to sign off on the written notice to reflect that they have been apprised of the outcome of the investigation.

**Retaliation**

It is unlawful to retaliate against or harass any person for filing an EEO complaint or for cooperating in the investigation of an EEO complaint. Any employee who engages in such retaliation or harassment shall be disciplined.

## **Other Agencies Where a Complaint of Discrimination May be Filed?**

Any employee or applicant for employment who believes that he or she has experienced discrimination has a right to file a formal complaint with the city, state or federal agencies listed below. A person does not give up this right when he or she files a complaint with the Office's EEO Officer Nancy E. Laxer or the EEO Coordinator Cynthia Aker. The following local, state and federal agencies enforce laws against discrimination:

<b>New York City Commission on Human Rights</b>	25 Reade Street NY, NY 10007 212-306-7450	25 Chapel Street Suite 1001 Brooklyn, NY 11201 718-722-3130
<a href="http://www.nyc.gov/cchr">www.nyc.gov/cchr</a>		
<b>New York State Division of Human Rights</b>	163 West 125th Street 4th Floor NY, NY 10027 212-961-8650	55 Hanson Place Room 1084 Brooklyn, NY 11217 718-722-2385
<a href="http://www.dhr.ny.gov">www.dhr.ny.gov</a>		
<b>United States Equal Employment Opportunity Commission New York District Office</b>	33 Whitehall Street 5th floor NY, NY 10004 1-800-669-4000 <a href="http://www.eeoc.gov">www.eeoc.gov</a>	
<b>United States Department of Labor Office of Federal Contract Compliance Programs</b>	26 Federal Plaza Room 36-116 NY, NY 10278 212-264-7742 <a href="http://www.dol.gov/ofccp/">www.dol.gov/ofccp/</a>	

**Please Note:** There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days.

- **New York City Commission on Human Rights:** One Year (N.Y.C. Administrative Code, Title 8, Chapter 1). Three years to file gender-based harassment claims (N.Y.C. Administrative Code, Title 8, Chapter 1, § 8-109(e) as amended May 9, 2018).

- **New York State Division of Human Rights:** One Year (New York Executive Law, Article 15, § 297(5); see also § 297(9) (may file civil action first, but administrative action is then precluded). Three years to file sexual harassment in employment claims (New York Executive Law, Article 15, § 297(5) as amended August 12, 2019, effective October 11, 2019).

- **United States Equal Employment Opportunity Commission:** 180 days, unless the complainant has already filed a complaint about the same acts with the New York State Division of Human Rights or New York City Commission on Human Rights. If so, filing before EEOC must occur within 300 days from the date of the alleged act of discrimination, but 60 days after complaints have been filed with or “deferred” to the NYS Division of Human Rights or the NYC Commission on Human Rights. It is advisable to file before the expiration of 240 days or within 30 days after receiving notice that the State Division, or the City Commission has terminated the proceedings under State or Local law, whichever is earlier (42 U.S.C. § 2000e-5(e)).

- **Office of Federal Contract Compliance Programs:** within 180 days, 41 CFR § 60 1.21 (1990).

### KCDA Complaint of Discrimination Form

A complaint of discrimination may also be made in person, by telephone or email. Please print the following information:

Name \_\_\_\_\_  
Civil Service Title \_\_\_\_\_  
Office Title \_\_\_\_\_  
Bureau/Department \_\_\_\_\_  
Your Supervisor \_\_\_\_\_  
Your Office Location \_\_\_\_\_  
Your Home Address \_\_\_\_\_  
Office Telephone \_\_\_\_\_ Home Telephone \_\_\_\_\_  
Email Address \_\_\_\_\_

**What is the alleged basis of discrimination? (Check any which apply):**

- ☐ Race
- ☐ Color
- ☐ National Origin (including Alienage, Ancestry or Citizenship Status)
- ☐ Religion
- ☐ Creed
- ☐ Age (18 and over)
- ☐ Disability
- ☐ Sex
- ☐ Gender (including Sexual Harassment; Pregnancy and Gender Identity)
- ☐ Sexual Orientation
- ☐ Marital Status
- ☐ Domestic Partnership Status
- ☐ Genetic Predisposition or Carrier Status
- ☐ Military Status
- ☐ Status as a Victim of Domestic Violence, Sex Offense or Stalking
- ☐ Caregiver Status
- ☐ Salary History
- ☐ Unemployment Status
- ☐ Consumer Credit History
- ☐ Familial Status
- ☐ Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.
- ☐ Sexual and Reproductive Health Decisions
- ☐ Other \_\_\_\_\_



**Specifics of Claim**

Name of person(s) who discriminated against you \_\_\_\_\_

When did the alleged discrimination occur? \_\_\_\_\_

Where did it happen? \_\_\_\_\_

Were there witnesses to the discrimination?

(Please provide their names) \_\_\_\_\_

**Did you report this to anyone? If so, please state the name of the person to whom you reported it.** \_\_\_\_\_

**Have you filed a complaint about the alleged discrimination with any of the following agencies? If so, please state the date and number of the complaint.**

- New York City Commission on Human Rights \_\_\_\_\_
- New York State Division of Human Rights \_\_\_\_\_
- United States Equal Employment Opportunity Commission \_\_\_\_\_
- United States Department of Labor \_\_\_\_\_

**Describe what you believe are the unfair things that happened to you, and how other persons were treated differently. This statement may be amended to correct mistakes or omissions. Please use extra pages if necessary.**

**What corrective action do you want taken?**


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This image shows a single page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

**[www.brooklynda.org](http://www.brooklynda.org)**

REVISED 01/06/2020



### **Appendix – 3**

Office of the Kings County District Attorney

*The Kings County District Attorney's Office Equal Employment Opportunity  
Discrimination Policy and Complaint Procedures*

April 2019

# **THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

## **Equal Employment Opportunity**

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### **Discrimination Policy and Complaint Procedures**





**THE KINGS COUNTY DISTRICT ATTORNEY’S OFFICE**



The Kings County District Attorney's Office is an Equal Opportunity Employer. As District Attorney, I reaffirm that it is the policy of this Office to maintain fair employment practices at all times for all its members and applicants for employment and to comply with Federal, State and City anti-discrimination laws. This policy extends to everyone who works within the office or its workplaces, those who seek employment within the office, as well as recipients of program services administered by the KCDA. No employee may retaliate against or harass any person filing a complaint or cooperating in the investigation of a complaint. Such retaliation or harassment is unlawful and will be cause for disciplinary action.

The Office acknowledges the right of all vendors, contractors and bidders, business owners, their managers and employees, to be treated fairly and equally, based on merit and ability and free from discrimination based on the protected status factors listed below. It is the expectation of the Office that all parties will conduct themselves in accordance with the NYC Human Rights Law and the Sexual Harassment Policy of the Office or risk being denied access to any Office facilities.

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Federal, State and/or City laws prohibit employment discrimination based on:

- Race
- Color
- National Origin (including alienage, ancestry and citizenship status)
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- Age (18 and over)
- Disability
- Sex
- Gender<sup>1</sup>
- Sexual Orientation
- Marital Status
- Domestic Partnership Status
- Pregnancy
- Genetic Predisposition or Carrier Status
- Military Status

<sup>1</sup> Including 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.

- Status as a Victim of Domestic Violence, Sex Offense or Stalking
- Caregiver Status
- Unemployment Status
- Consumer Credit History
- Familial Status<sup>2</sup>
- Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.

In addition to those persons who fall within one of the protected groups, those who are “perceived” to be within one of the categories, or who have a “known relationship or association” with someone who is, or is perceived to be, within one of the categories, are also protected.



- Hiring
- Selection Criteria
- Recruitment
- Salary and Benefits
- Training
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- Assignments
- Evaluations
- Transfers
- Promotions
- Working Conditions
- Leaves of Absence
- Discipline
- Other terms and conditions of employment

<sup>2</sup>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.



The Kings County District Attorney's Office is an equal opportunity employer. The KCDA Equal Employment Opportunity (EEO) Policy, prohibits discrimination based on Race, Color, National Origin, Religion, Age, Disability, Sex and numerous other protected classes.

Sexual harassment is a form of employment discrimination prohibited by the EEO Policy and law. As District Attorney, I view sexual harassment, by any applicant for employment or employee of this Office, as unacceptable conduct. All KCDA employees should be familiar with the EEO Policy's protections against sexual harassment. The EEO Policy incorporates the protection provided by federal, state and local laws and implements them by providing for disciplinary sanctions to be imposed on employees who engage in sexual harassment against other employees, applicants for employment, or non-employees such as contractors, subcontractors, vendors or consultants in our workplace.

Federal guidelines define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the 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 purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." Under the New York City Human Rights Law, verbal or physical conduct that treats a person "less well" because of gender is unlawful.

Sexual harassment may involve individuals of the same or different genders. A broad range of conduct by supervisors and co-workers may constitute sexual harassment, including, but not limited to, making remarks or gestures or displaying pictures that are sexually suggestive; engaging in verbal banter, abuse or harassment of a sexual nature; requesting – directly or subtly – sexual favors; and subjecting another person to unwelcome touching, patting, pinching or other contact.

**Sexual harassment is strictly prohibited. Employees who violate this policy are subject to discipline, including termination. Persons who violate this policy may also be subject to civil damages or criminal penalties.**

The KCDA policy prohibiting sexual harassment does not forbid consensual social relationships between employees. But it does prohibit gender-based conduct that is unwanted or creates an intimidating and hostile work environment.

Managers, supervisors and human resources personnel must promptly notify the agency EEO Officer if they receive a complaint alleging sexual harassment or if they observe, learn about, or suspect that any violation of the Policy has occurred. Sanctions will be enforced against managers or supervisors who knowingly allow such behavior to continue. Managers and supervisors should encourage subordinates to consult with the EEO Officer, the EEO Coordinator or any of the EEO Counselors.

The Office urges anyone covered by the KCDA EEO Policy who believes he or she has been subjected to sexual harassment or any unwelcome sexual attention to report the conduct as soon as possible to a supervisor or manager or to the KCDA EEO Officer, Nancy Laxer, who may be contacted at 718-250-2068 (room number 1920) or to the KCDA EEO Coordinator, Cynthia Aker, who may be contacted at 718-250-2095 (room number 1938) or to any of the EEO Counselors listed on the KCDA INTRANet. Complaints can also be filed with outside agencies as described in the EEO Complaint Procedures, posted on bulletin boards throughout the agency and on the KCDA INTRANet.

Complaints of sexual harassment will be handled under the KCDA EEO Policy posted on the KCDA INTRANet.

All inquiries, complaints and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept as confidential as possible. All complaints will be impartially and fairly investigated. Investigations will be completed as soon as possible. The complainant, any witnesses and the respondent will all be provided with written notification of the results of the investigation.

No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Retaliation or harassment is unlawful and subject to disciplinary action.

**Eric Gonzalez  
District Attorney  
October, 2018**



The Americans with Disabilities Act (Act) prohibits discrimination against qualified individuals with disabilities. As District Attorney, I affirm that I will comply with the Act to ensure that reasonable accommodations will be made for a person with a “disability” who is otherwise qualified to perform the essential functions of the job for which he or she has applied or presently holds, unless providing such accommodation would impose an undue hardship.

A “disability” under the Act means “a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment,” Title 42, Chapter 126 U.S.C. § 12102(1). By “reasonable accommodation” the Act describes reasonable accommodation as being:

- making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices ... the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Title 42, Chapter 126 U.S.C. § 12111(9).

A full text of the Americans with Disabilities Act, and materials concerning its interpretation, can be obtained from the EEO Officer, Room 1920 or the EEO Coordinator, Room 1938. Employees who believe they are covered by the definition and who wish to identify themselves so that reasonable accommodations may be made may contact the EEO Officer or the EEO Coordinator.

### **Issues Related to Disabilities**

Cynthia Aker is the 55-a Coordinator and is responsible for ensuring that the Office complies with laws designed to protect disabled employees.

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The law requires that reasonable accommodations be made for disabled employees who are capable of performing the essential functions of the job in question unless providing such accommodation would impose an undue hardship. The law also requires that reasonable accommodations be made for employees’ religious observances. Any employee who wishes to request an accommodation should contact Ms. Laxer or Ms. Aker.

## **Executive Order No. 16 - Single Sex Bathroom Policy**

As of March 7, 2016, all city agencies are now required to ensure that city employees and members of the public have access to single-sex facilities such as bathrooms and locker rooms in city buildings without being required to show identification, medical documentation or any proof of gender identity.



It is the policy of the Office to resolve all complaints of discrimination and harassment promptly and in accordance with the governing law. Employees are urged to follow the complaint procedure whenever they have a complaint or are aware of a problem involving discrimination or harassment within the office. Those accused of discrimination or harassment have a right to respond, in writing, to the allegations.

**Eric Gonzalez  
District Attorney  
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# THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE



When, where and how to file an EEO Complaint, including contact information for the KCDA EEO Officer, EEO Coordinator and EEO Counselors; the process once a complaint is filed; other agencies outside of KCDA where an EEO complaint can be filed; and the KCDA EEO complaint form.





**A** An EEO complaint should be filed if an employee believes they have been discriminated against by a manager, supervisor or another employee because of:

- Race
- Color
- National Origin (including alienage, ancestry and citizenship status)
- Religion
- Creed
- Age (18 and over)
- Disability
- Sex
- Gender<sup>1</sup>
- Sexual Orientation
- Marital Status
- Domestic Partnership Status
- Pregnancy
- Genetic Predisposition or Carrier Status
- Military Status
- Status as a Victim of Domestic Violence, Sex Offense or Stalking
- Caregiver Status
- Unemployment Status
- Consumer Credit History
- Familial Status<sup>2</sup>
- Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.

**B** An employee should file a complaint if they feel that they have been sexually harassed by a manager, supervisor or another employee.

**C** An employee should file a complaint if they believe that a manager, supervisor or another employee has harassed them or retaliated against them because they filed a discrimination complaint or cooperated in the investigation of a complaint.



- Discriminatory treatment of employees in hiring, assignments, working conditions, salary and benefits, performance evaluations, promotions, training, transfers, discipline, terminations and any other terms and conditions of employment.
- Policies that have a disproportionate impact on a group protected by law, unless they are justified by business necessity.
- Failure to make a reasonable accommodation for an employee with a disability or for an employee's religious observance.
- Discriminatory harassment, intimidation, ridicule or insults.

<sup>1</sup> Including 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.

<sup>2</sup>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.



## Where to File an EEO Complaint

### The Equal Employment Opportunity Officer:

Nancy E. Laxer, the Executive Assistant District Attorney for Administration, is the EEO Officer. She has overall responsibility for the administration of the EEO Program, including conducting EEO investigations, and reports directly to the District Attorney or his designee. She may be contacted at 250-2068, Room 1920.

### The EEO Coordinator:

Cynthia Aker, the EEO Coordinator, also administers the EEO Program under the EEO Officer's guidance. Ms. Aker is responsible for conducting EEO investigations and reports to the EEO Officer. She may be contacted at 250-2095, Room 1938.

The EEO Counselors listed below are available to receive complaints and make the appropriate referral regarding allegations of violations of the policy and report them to the EEO Officer. However, employees may take their complaint directly to the EEO Officer or EEO Coordinator. EEO Counselors may be asked to participate in the investigative portion of this process.

NAME	TITLE	BUREAU	EXTENSION
Melinda Alexis-Hayes	Special Counsel For Public Engagement	Executives	x2213
Stephanie Green-Jones	Supervising Detective Investigator (Trials)	Detective Investigators	X2909
Michelle Kaminsky	Bureau Chief	Domestic Violence	X3641
Natasha Low	Unit Chief	Young Adult Court	X3778
Aneudy Mata	Paralegal Supervisor	Trial Bureau Green	X2118
Kin Wang Ng	Bureau Chief	Trial Bureau Red	X3744
Lisa Perlman	Senior Assistant District Attorney	Conviction Review Unit	X4843
Gregory Thomas	Deputy Director	Crime Strategies Unit	X3267
Karla D. Watson	Deputy Bureau Chief	Trial Bureau Red	X2105
Fran Weiner	Director of Legal Training	Executives	X3162



All employees have the right to meet with the EEO Officer, EEO Coordinator, or an EEO Counselor to discuss their complaint. If possible, employees should obtain approval from their supervisor to leave their work site in order to meet with the EEO Officer, Coordinator or Counselor during their shift, but they are not required to inform their supervisor of the subject of the meeting. Supervisors may not unreasonably deny employees permission to attend the meeting.

Arrangements will be made to meet with the employee off-premises when necessary to ensure confidentiality. At an employee's request, appointments can be scheduled before or after office hours, or during an employee's lunch period. A complaint may be filed in person, by email, telephone or in writing with any member of the EEO staff.

Employees who have knowledge of discriminatory acts committed in the Office but who wish to remain anonymous may telephone the EEO Officer or the Coordinator. In such cases the EEO Officer or Coordinator will take such follow-up action as may be necessary. Employees must understand that the cooperation of witnesses may be needed if any disciplinary action is to be taken to rectify a problem of discrimination or sexual harassment.



All EEO complaints will be handled under the direction of the EEO Officer. The EEO Officer, Coordinator and Counselors will treat all complaints confidentially. Information obtained from the complainant will not be discussed with other employees except as necessary to investigate and resolve the complaint.

The EEO Coordinator will interview the complainant to find out the details of the complaint and will discuss with the complainant the options for handling the complaint. These options may include:

- (1) further actions the employee could take on his or her own behalf;
- (2) conciliation by the EEO Officer;
- (3) investigation by the EEO Officer, Coordinator and/or Counselor; and
- (4) the filing of a formal complaint with an outside agency, such as the NYC Commission on Human Rights.

If it appears that the complaint does not involve an EEO problem, the EEO Coordinator may refer the employee to the appropriate personnel for assistance.

**B** In appropriate cases, an attempt will be made to mediate a complaint with the goal of a voluntary resolution by all parties. The conciliation process is intended to be concluded within 45 working days from the time the complaint is filed.

**I** An investigation will be conducted by the EEO Coordinator or the EEO Officer. The investigation begins once an employee files a complaint. The complaint must include the allegations, which form the basis of the complaint, and a statement of the relief sought.

A confidential report of the findings will be drafted. If the EEO Officer concludes on the basis of the investigation that discrimination has occurred, she shall recommend appropriate corrective action. This report shall be issued within 30 days of the taking of the original complaint wherever possible.

The EEO Officer will recommend corrective action to the District Attorney, whose decision is final. Corrective action may include disciplinary measures such as counseling, formal reprimand, transfer, demotion, the filing of disciplinary charges or termination. Disciplinary measures shall be taken in accordance with any applicable provisions of law, rules and regulations and collective bargaining agreements.

The parties to a complaint will be advised in writing of the outcome by the EEO Officer or EEO Coordinator. Written notice will be given to the parties either by first class mail, return receipt requested or delivered by hand. All parties will be asked to sign off on the written notice to reflect that they have been apprised of the outcome of the investigation.



It is unlawful to retaliate against or harass any person for filing an EEO complaint or for cooperating in the investigation of an EEO complaint. Any employee who engages in such retaliation or harassment shall be disciplined.

## **Other Agencies Where a Complaint of Discrimination May be Filed?**

Any employee or applicant for employment who believes that he or she has experienced discrimination has a right to file a formal complaint with the city, state or federal agencies listed below. A person does not give up this right when he or she files a complaint with the Office's EEO Officer Nancy E. Laxer or the EEO Coordinator Cynthia Aker. The following local, state and federal agencies enforce laws against discrimination:

**New York City  
Commission  
on Human Rights**

25 Reade Street  
NY, NY 10007  
212-306-7450

25 Chapel Street  
Suite 1001  
Brooklyn, NY 11201  
718-722-3130

[www.nyc.gov/cchr](http://www.nyc.gov/cchr)

**New York State  
Division of Human  
Rights**

163 West 125th Street  
4th Floor  
NY, NY 10027  
212-961-8650

55 Hanson Place  
Room 1084  
Brooklyn, NY 11217  
718-722-2385

[www.dhr.ny.gov](http://www.dhr.ny.gov)

**United States Equal  
Employment  
Opportunity  
Commission  
New York District  
Office**

33 Whitehall Street  
5th floor  
NY, NY 10004  
1-800-669-4000  
[www.eeoc.gov](http://www.eeoc.gov)

**United States  
Department of Labor  
Office of Federal  
Contract Compliance  
Programs**

26 Federal Plaza  
Room 36-116  
NY, NY 10278  
212-264-7742  
[www.dol.gov/ofccp/](http://www.dol.gov/ofccp/)

There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days.

- **NYC Commission on Human Rights** One Year (N.Y.C. Administrative Code, Title 8, Chapter 1). Three years to file gender-based harassment claims (N.Y.C. Administrative Code, Title 8, Chapter 1, § 8-109(e) as amended May 9, 2018).

- **NY State Division of Human Rights** One Year (New York Executive Law, Article 15, § 297(5); see also § 297(9) (may file civil action first, but administrative action is then precluded).

- **U.S. Equal Employment Opportunity Commission (EEOC)** 180 days, unless the complainant has already filed a complaint about the same acts with the New York State Division of Human Rights or New York City Commission on Human Rights. If so, filing before EEOC must occur within 300 days from the date of the alleged act of discrimination, but 60 days after complaints have been filed with or “deferred” to the NYS Division of Human Rights or the NYC Commission on Human Rights. It is advisable to file before the expiration of 240 days or within 30 days after receiving notice that the State Division, or the City Commission has terminated the proceedings under State or Local law, whichever is earlier (42 U.S.C. § 2000e-5(e)).

- **Office of Federal Contract Compliance Programs:** within 180 days, 41 CFR § 60 1.21 (1990).



## KCDA Complaint of Discrimination Form

A complaint of discrimination may also be made in person, by telephone or email. Please print the following information:

Name \_\_\_\_\_

Civil Service Title \_\_\_\_\_

Office Title \_\_\_\_\_

Bureau/Department \_\_\_\_\_

Your Supervisor \_\_\_\_\_

Your Office Location \_\_\_\_\_

Your Home Address \_\_\_\_\_

Office Telephone \_\_\_\_\_ Home Telephone \_\_\_\_\_

Email Address \_\_\_\_\_

### **What is the alleged basis of discrimination? (Check any which apply):**

- ☐ Race
- ☐ Color
- ☐ National Origin (including alienage, ancestry or citizenship status)
- ☐ Religion
- ☐ Creed
- ☐ Age (18 and over)
- ☐ Disability
- ☐ Sex
- ☐ Gender
- ☐ Sexual Orientation
- ☐ Marital Status
- ☐ Domestic Partnership Status
- ☐ Pregnancy
- ☐ Genetic Predisposition or Carrier Status
- ☐ Military Status
- ☐ Status as a Victim of Domestic Violence, Sex Offense or Stalking
- ☐ Caregiver Status
- ☐ Unemployment Status
- ☐ Consumer Credit History
- ☐ Familial Status
- ☐ Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.
- ☐ Other \_\_\_\_\_

**Specifics of Claim**

Name of person(s) who discriminated against you

When did the alleged discrimination occur? \_\_\_\_\_

Where did it happen? \_\_\_\_\_

Were there witnesses to the discrimination?  
(Please provide their names) \_\_\_\_\_

\_\_\_\_\_

**Have you filed a complaint about the alleged discrimination with**

- New York City Commission on Human Rights \_\_\_\_\_
- New York State Division of Human Rights \_\_\_\_\_
- United States Equal Employment Opportunity Commission \_\_\_\_\_
- United States Department of Labor \_\_\_\_\_


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**Appendix – 4**

Office of the Kings County District Attorney

*The Kings County District Attorney's Office Equal Employment Opportunity  
Discrimination Policy and Complaint Procedures*

September 2019



# **THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

## **Equal Employment Opportunity**

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### **Discrimination Policy and Complaint Procedures**





**THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

**Eric Gonzalez**  
District Attorney

**Equal Employment Opportunity**

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**Discrimination Policy**

**District Attorney Eric Gonzalez**  
**Employment Discrimination Policy Statement**

The Kings County District Attorney's Office is an Equal Opportunity Employer. As District Attorney, I reaffirm that it is the policy of this Office to maintain fair employment practices at all times for all its members and applicants for employment and to comply with Federal, State and City anti-discrimination laws. This policy extends to everyone who works within the office or its workplaces, those who seek employment within the office, as well as recipients of program services administered by the KCDA. No employee may retaliate against or harass any person filing a complaint or cooperating in the investigation of a complaint. Such retaliation or harassment is unlawful and will be cause for disciplinary action.

The Office acknowledges the right of all vendors, contractors and bidders, business owners, their managers and employees, to be treated fairly and equally, based on merit and ability and free from discrimination based on the protected status factors listed below. It is the expectation of the Office that all parties will conduct themselves in accordance with the NYC Human Rights Law and the Sexual Harassment Policy of the Office or risk being denied access to any Office facilities.

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**General Anti-Discrimination Protections**

Federal, State and/or City laws prohibit employment discrimination based on:

- Race
- Color
- National Origin (including Alienage, Ancestry and Citizenship Status)
- Religion
- Creed
- Age (18 and over)
- Disability
- Sex
- Gender(including Sexual Harassment<sup>1</sup>; Pregnancy and Gender Identity<sup>2</sup>)
- Sexual Orientation
- Marital Status
- Domestic Partnership Status
- Genetic Predisposition or Carrier Status
- Military Status
- Status as a Victim of Domestic Violence, Sex Offense or Stalking

<sup>1</sup> Sexual Harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person's gender.

<sup>2</sup> Gender Identity 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.

- Caregiver Status<sup>3</sup>
- Unemployment Status
- Salary History<sup>4</sup>
- Consumer Credit History
- Familial Status<sup>5</sup>
- Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.
- Sexual and Reproductive Health Decisions<sup>6</sup>

In addition to those persons who fall within one of the protected groups, those who are “perceived” to be within one of the categories, or who have a “known relationship or association” with someone who is, or is perceived to be, within one of the categories, are also protected.

### **The laws prohibit discrimination, which affects:**

- Hiring
- Selection Criteria
- Recruitment
- Salary and Benefits
- Training
- Termination
- Assignments
- Evaluations
- Transfers
- Promotions
- Working Conditions
- Leaves of Absence
- Discipline
- Other terms and conditions of employment

<sup>3</sup> 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.

<sup>4</sup> Salary History includes the applicant’s current or prior wage, benefits or other compensation. 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.

<sup>5</sup> 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.

<sup>6</sup> 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.

## **Sexual Harassment Policy Statement**

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Sexual harassment is a form of employment discrimination prohibited by the EEO Policy and law. As District Attorney, I view sexual harassment, by any applicant for employment or employee of this Office, as unacceptable conduct. All KCDA employees should be familiar with the EEO Policy's protections against sexual harassment. The EEO Policy incorporates the protection provided by federal, state and local laws and implements them by providing for disciplinary sanctions to be imposed on employees who engage in sexual harassment against other employees, applicants for employment, or non-employees such as contractors, subcontractors, vendors or consultants in our workplace.

Federal guidelines define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the 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 purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." Under the New York City Human Rights Law, verbal or physical conduct that treats a person "less well" because of gender is unlawful.

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**Eric Gonzalez  
District Attorney  
October, 2018**

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- making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices ... the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Title 42, Chapter 126 U.S.C. § 12111(9).

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As of March 7, 2016, all city agencies are now required to ensure that city employees and members of the public have access to single-sex facilities such as bathrooms and locker rooms in city buildings without being required to show identification, medical documentation or any proof of gender identity.

## **Discrimination and Harassment Complaint Procedures**

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**Eric Gonzalez  
District Attorney  
October, 2018**



# THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE

## Equal Employment Opportunity

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### Complaint Procedures

**Eric Gonzalez**  
District Attorney



**The following pages include:** When, where and how to file an EEO Complaint, including contact information for the KCDA EEO Officer, EEO Coordinator and EEO Counselors; the process once a complaint is filed; other agencies outside of KCDA where an EEO complaint can be filed; and the KCDA EEO complaint form.



## **When to File an EEO Complaint**

**A.** An EEO complaint should be filed if an employee believes they have been discriminated against by a manager, supervisor or another employee because of:

- Race
- Color
- National Origin (including Alienage, Ancestry and Citizenship Status)
- Religion
- Creed
- Age (18 and over)
- Disability
- Sex
- Gender (including Sexual Harassment; Pregnancy and Gender Identity)
- Sexual Orientation
- Marital Status
- Domestic Partnership Status
- Genetic Predisposition or Carrier Status
- Military Status
- Status as a Victim of Domestic Violence, Sex Offense or Stalking
- Caregiver Status
- Unemployment Status
- Salary History
- Consumer Credit History
- Familial Status
- Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.
- Sexual and Reproductive Health Decisions

**B.** An employee should file a complaint if they feel that they have been sexually harassed by a manager, supervisor or another employee.

**C.** An employee should file a complaint if they believe that a manager, supervisor or another employee has harassed them or retaliated against them because they filed a discrimination complaint or cooperated in the investigation of a complaint.

### **Federal, State and City law prohibits the following types of discrimination:**

- Discriminatory treatment of employees in hiring, assignments, working conditions, salary and benefits, performance evaluations, promotions, training, transfers, discipline, terminations and any other terms and conditions of employment.
- Policies that have a disproportionate impact on a group protected by law, unless they are justified by business necessity.
- Failure to make a reasonable accommodation for an employee with a disability or for an employee's religious observance.
- Discriminatory harassment, intimidation, ridicule or insults.



## Where to File an EEO Complaint

### The Equal Employment Opportunity Officer:

Nancy E. Laxer, the Executive Assistant District Attorney for Administration, is the EEO Officer. She has overall responsibility for the administration of the EEO Program, including conducting EEO investigations, and reports directly to the District Attorney or his designee. She may be contacted at 250-2068, Room 1920.

### The EEO Coordinator:

Cynthia Aker, the EEO Coordinator, also administers the EEO Program under the EEO Officer's guidance. Ms. Aker is responsible for conducting EEO investigations and reports to the EEO Officer. She may be contacted at 250-2095, Room 1938.

The EEO Counselors listed below are available to receive complaints and make the appropriate referral regarding allegations of violations of the policy and report them to the EEO Officer. However, employees may take their complaint directly to the EEO Officer or EEO Coordinator. EEO Counselors may be asked to participate in the investigative portion of this process.

NAME	TITLE	BUREAU	EXTENSION
Melinda Alexis-Hayes	Special Counsel For Public Engagement	Executives	x2213
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Aneudy Mata	Paralegal Supervisor	Trial Bureau Green	X2118
Kin Wang Ng	Bureau Chief	Trial Bureau Red	X3744
Lisa Perlman	Senior Assistant District Attorney	Conviction Review Unit	X4843
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## **How to File an EEO Complaint**

All employees have the right to meet with the EEO Officer, EEO Coordinator, or an EEO Counselor to discuss their complaint. If possible, employees should obtain approval from their supervisor to leave their work site in order to meet with the EEO Officer, Coordinator or Counselor during their shift, but they are not required to inform their supervisor of the subject of the meeting. Supervisors may not unreasonably deny employees permission to attend the meeting.

Arrangements will be made to meet with the employee off-premises when necessary to ensure confidentiality. At an employee's request, appointments can be scheduled before or after office hours, or during an employee's lunch period. A complaint may be filed in person, by email, telephone or in writing with any member of the EEO staff.

Employees who have knowledge of discriminatory acts committed in the Office but who wish to remain anonymous may telephone the EEO Officer or the Coordinator. In such cases the EEO Officer or Coordinator will take such follow-up action as may be necessary. Employees must understand that the cooperation of witnesses may be needed if any disciplinary action is to be taken to rectify a problem of discrimination or sexual harassment.

## **What Happens When an EEO Complaint is Filed?**

All EEO complaints will be handled under the direction of the EEO Officer. The EEO Officer, Coordinator and Counselors will treat all complaints confidentially. Information obtained from the complainant will not be discussed with other employees except as necessary to investigate and resolve the complaint.

The EEO Coordinator will interview the complainant to find out the details of the complaint and will discuss with the complainant the options for handling the complaint. These options may include:

- (1) further actions the employee could take on his or her own behalf;
- (2) conciliation by the EEO Officer;
- (3) investigation by the EEO Officer, Coordinator and/or Counselor; and
- (4) the filing of a formal complaint with an outside agency, such as the NYC Commission on Human Rights.

If it appears that the complaint does not involve an EEO problem, the EEO Coordinator may refer the employee to the appropriate personnel for assistance.

**Conciliation:** In appropriate cases, an attempt will be made to mediate a complaint with the goal of a voluntary resolution by all parties. The conciliation process is intended to be concluded within 45 working days from the time the complaint is filed.

**Investigation:** An investigation will be conducted by the EEO Coordinator or the EEO Officer. The investigation begins once an employee files a complaint. The complaint must include the allegations, which form the basis of the complaint, and a statement of the relief sought.

A confidential report of the findings will be drafted. If the EEO Officer concludes on the basis of the investigation that discrimination has occurred, she shall recommend appropriate corrective action. This report shall be issued within 30 days of the taking of the original complaint wherever possible.

The EEO Officer will recommend corrective action to the District Attorney, whose decision is final. Corrective action may include disciplinary measures such as counseling, formal reprimand, transfer, demotion, the filing of disciplinary charges or termination. Disciplinary measures

shall be taken in accordance with any applicable provisions of law, rules and regulations and collective bargaining agreements.

The parties to a complaint will be advised in writing of the outcome by the EEO Officer or EEO Coordinator. Written notice will be given to the parties either by first class mail, return receipt requested or delivered by hand. All parties will be asked to sign off on the written notice to reflect that they have been apprised of the outcome of the investigation.

### **Retaliation**

It is unlawful to retaliate against or harass any person for filing an EEO complaint or for cooperating in the investigation of an EEO complaint. Any employee who engages in such retaliation or harassment shall be disciplined.

## **Other Agencies Where a Complaint of Discrimination May be Filed?**

Any employee or applicant for employment who believes that he or she has experienced discrimination has a right to file a formal complaint with the city, state or federal agencies listed below. A person does not give up this right when he or she files a complaint with the Office's EEO Officer Nancy E. Laxer or the EEO Coordinator Cynthia Aker. The following local, state and federal agencies enforce laws against discrimination:

**New York City  
Commission  
on Human Rights**

25 Reade Street  
NY, NY 10007  
212-306-7450

25 Chapel Street  
Suite 1001  
Brooklyn, NY 11201  
718-722-3130

[www.nyc.gov/cchr](http://www.nyc.gov/cchr)

**New York State  
Division of Human  
Rights**

163 West 125th Street  
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NY, NY 10027  
212-961-8650

55 Hanson Place  
Room 1084  
Brooklyn, NY 11217  
718-722-2385

[www.dhr.ny.gov](http://www.dhr.ny.gov)

**United States Equal  
Employment  
Opportunity  
Commission  
New York District  
Office**

33 Whitehall Street  
5th floor  
NY, NY 10004  
1-800-669-4000  
[www.eeoc.gov](http://www.eeoc.gov)

**United States  
Department of Labor  
Office of Federal  
Contract Compliance  
Programs**

26 Federal Plaza  
Room 36-116  
NY, NY 10278  
212-264-7742  
[www.dol.gov/ofccp/](http://www.dol.gov/ofccp/)

**Please Note:** There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 180 days.

- **New York City Commission on Human Rights:** One Year (N.Y.C. Administrative Code, Title 8, Chapter 1). Three years to file gender-based harassment claims (N.Y.C. Administrative Code, Title 8, Chapter 1, § 8-109(e) as amended May 9, 2018).
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- **United States Equal Employment Opportunity Commission:** 180 days, unless the complainant has already filed a complaint about the same acts with the New York State Division of Human Rights or New York City Commission on Human Rights. If so, filing before EEOC must occur within 300 days from the date of the alleged act of discrimination, but 60 days after complaints have been filed with or “deferred” to the NYS Division of Human Rights or the NYC Commission on Human Rights. It is advisable to file before the expiration of 240 days or within 30 days after receiving notice that the State Division, or the City Commission has terminated the proceedings under State or Local law, whichever is earlier (42 U.S.C. § 2000e-5(e)).
- **Office of Federal Contract Compliance Programs:** within 180 days, 41 CFR § 60 1.21 (1990).

## KCDA Complaint of Discrimination Form

A complaint of discrimination may also be made in person, by telephone or email. Please print the following information:

Name \_\_\_\_\_

Civil Service Title \_\_\_\_\_

Office Title \_\_\_\_\_

Bureau/Department \_\_\_\_\_

Your Supervisor \_\_\_\_\_

Your Office Location \_\_\_\_\_

Your Home Address \_\_\_\_\_

Office Telephone \_\_\_\_\_ Home Telephone \_\_\_\_\_

Email Address \_\_\_\_\_

### **What is the alleged basis of discrimination? (Check any which apply):**

- ☐ Race
- ☐ Color
- ☐ National Origin (including Alienage, Ancestry or Citizenship Status)
- ☐ Religion
- ☐ Creed
- ☐ Age (18 and over)
- ☐ Disability
- ☐ Sex
- ☐ Gender (including Sexual Harassment; Pregnancy and Gender Identity)
- ☐ Sexual Orientation
- ☐ Marital Status
- ☐ Domestic Partnership Status
- ☐ Genetic Predisposition or Carrier Status
- ☐ Military Status
- ☐ Status as a Victim of Domestic Violence, Sex Offense or Stalking
- ☐ Caregiver Status
- ☐ Unemployment Status
- ☐ Salary History
- ☐ Consumer Credit History
- ☐ Familial Status
- ☐ Natural Hair or Hairstyles closely associated with Race, Ethnicity or Cultural Identity.
- ☐ Sexual and Reproductive Health Decisions
- ☐ Other \_\_\_\_\_



**Specifics of Claim**

Name of person(s) who discriminated against you

\_\_\_\_\_

When did the alleged discrimination occur? \_\_\_\_\_

Where did it happen? \_\_\_\_\_

Were there witnesses to the discrimination?

(Please provide their names) \_\_\_\_\_

\_\_\_\_\_

**Did you report this to anyone? If so, please state the name of the person to whom you reported it.**\_\_\_\_\_

\_\_\_\_\_

**Have you filed a complaint about the alleged discrimination with any of the following agencies? If so, please state the date and number of the complaint.**

- New York City Commission on Human Rights \_\_\_\_\_
- New York State Division of Human Rights \_\_\_\_\_
- United States Equal Employment Opportunity Commission  
\_\_\_\_\_
- United States Department of Labor \_\_\_\_\_

**Describe what you believe are the unfair things that happened to you, and how other persons were treated differently. This statement may be amended to correct mistakes or omissions. Please use extra pages if necessary.**

**What corrective action do you want taken?**

_____
_____
_____
_____
_____
_____

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**[www.brooklynda.org](http://www.brooklynda.org)**

## **Appendix – 5**

Office of the Kings County District Attorney

*The Kings County District Attorney's Office Equal Employment Opportunity  
Discrimination Policy and Complaint Procedures*

October 2018

# **THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

## **Equal Employment Opportunity**

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### **Discrimination Policy and Complaint Procedures**



**THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE**

**Eric Gonzalez**  
District Attorney

**Equal Employment Opportunity**

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**Discrimination Policy**



## **District Attorney Eric Gonzalez Employment Discrimination Policy Statement**

The Kings County District Attorney's Office is an Equal Opportunity Employer. As District Attorney, I reaffirm that it is the policy of this Office to maintain fair employment practices at all times for all its members and applicants for employment and to comply with City, State and Federal anti-discrimination laws. This policy extends to everyone who works within the office or its workplaces, those who seek employment within the office as well as recipients of program services administered by the KCDA. No employee may retaliate against or harass any person filing a complaint or cooperating in the investigation of a complaint. Such retaliation or harassment is unlawful and will be cause for disciplinary action.

The Office acknowledges the right of all vendors, contractors and bidders, business owners, their managers and employees, to be treated fairly and equally, based on merit and ability and free from discrimination based on the protected status factors listed below. It is the expectation of the Office that all parties will conduct themselves in accordance with the NYC Human Rights Law and the Sexual Harassment/Hostile Work Environment Policies of the Office or risk being denied access to any Office facilities.

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### **General Anti-Discrimination Protections**

Federal, State and/or Local laws prohibit employment discrimination based on:

- Race
- Color
- National Origin (including alienage, ancestry and citizenship status)
- Religion
- Creed
- Age (18 and over)
- Disability
- Sex
- Gender<sup>1</sup>
- Sexual Orientation

<sup>1</sup> Including 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.

- Marital Status
- Domestic Partnership Status
- Pregnancy
- Genetic Predisposition or Carrier Status
- Military Status
- Status as a Victim of Domestic Violence, Sex Offense or Stalking
- Caregiver Status
- Unemployment Status
- Consumer Credit History
- Familial Status<sup>2</sup>

In addition to those persons who fall within one of the protected groups, those who are “perceived” to be within one of the categories, or who have a “known relationship or association” with someone who is, or is perceived to be, within one of the categories, are also protected.

**The laws prohibit discrimination, which affects:**

- Hiring
- Selection Criteria
- Recruitment
- Salary and Benefits
- Training
- Termination
- Assignments
- Evaluations
- Transfers
- Promotions
- Working Conditions
- Leaves of Absence
- Discipline
- Other terms and conditions of employment

<sup>2</sup>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.

## **Sexual Harassment Policy Statement**

The Kings County District Attorney's Office is an equal opportunity employer. The KCDA Equal Employment Opportunity (EEO) Policy, prohibits discrimination based on Race, Color, National Origin, Religion, Age, Disability, Sex and numerous other protected classes.

Sexual harassment is a form of employment discrimination prohibited by the EEO Policy and law. As District Attorney, I view sexual harassment, by any applicant for employment or employee of this Office, as unacceptable conduct. All KCDA employees should be familiar with the EEO Policy's protections against sexual harassment. The EEO Policy incorporates the protection provided by federal, state and local laws and implements them by providing for disciplinary sanctions to be imposed on employees who engage in sexual harassment against other employees, applicants for employment, or non-employees such as contractors, subcontractors, vendors or consultants in our workplace.

Federal guidelines define sexual harassment as "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: 1) submission to the 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 purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." Under the New York City Human Rights Law, verbal or physical conduct that treats a person "less well" because of gender is unlawful.

Sexual harassment may involve individuals of the same or different genders. A broad range of conduct by supervisors and co-workers may constitute sexual harassment, including, but not limited to, making remarks or gestures or displaying pictures that are sexually suggestive; engaging in verbal banter, abuse or harassment of a sexual nature; requesting – directly or subtly – sexual favors; and subjecting another person to unwelcome touching, patting, pinching or other contact.

**Sexual harassment is strictly prohibited. Employees who violate this policy are subject to discipline, including termination. Persons who violate this policy may also be subject to civil damages or criminal penalties.**

The KCDA policy prohibiting sexual harassment does not forbid consensual social relationships between employees. But it does prohibit gender-based conduct that is unwanted or creates an intimidating and hostile work environment.

Managers, supervisors and human resources personnel must promptly notify the agency EEO Officer if they receive a complaint alleging sexual

harassment or if they observe, learn about, or suspect that any violation of the Policy has occurred. Sanctions will be enforced against managers or supervisors who knowingly allow such behavior to continue. Managers and supervisors should encourage subordinates to consult with the EEO Officer, the EEO Coordinator or any of the EEO Counselors.

The Office urges anyone covered by the KCDA EEO Policy who believes he or she has been subjected to sexual harassment or any unwelcome sexual attention to report the conduct as soon as possible to a supervisor or manager or to the KCDA EEO Officer, Nancy Laxer, who may be contacted at 718-250-2068 (room number 1920) or to the KCDA EEO Coordinator, Cynthia Aker who may be contacted at 718-250-2095 (room number 1938) or to any of the EEO Counselors listed on the KCDA INTRANet. Complaints can also be filed with outside agencies as described in the EEO Complaint Procedures, posted on bulletin boards throughout the agency and on the KCDA INTRANet.

Complaints of sexual harassment will be handled under the KCDA EEO Policy posted on the KCDA INTRANet.

All inquiries, complaints and investigations are treated confidentially. Information is revealed strictly on a need-to-know basis. Information contained in a formal complaint is kept as confidential as possible. All complaints will be impartially and fairly investigated. Investigations will be completed as soon as possible. The complainant, any witnesses and the respondent will all be provided with written notification of the results of the investigation.

No employee may retaliate against or harass any person for filing a complaint or cooperating in the investigation of the complaint. Retaliation or harassment is unlawful and subject to disciplinary action.

**Eric Gonzalez**  
**District Attorney**  
**October, 2018**

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### **Disabilities**

The Americans with Disabilities Act (Act) prohibits discrimination against qualified individuals with disabilities. As District Attorney, I affirm that I will comply with the Act to ensure that reasonable accommodations will be made for a person with a "disability" who is otherwise qualified to perform the essential functions of the job for which he or she has applied or presently holds, unless providing such accommodation would impose an undue hardship.

A "disability" under the Act means "a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such impairment; or being regarded as having such an impairment," Title 42, Chapter 126 U.S.C. § 12102(1). By "reasonable accommodation" the Act describes reasonable accommodation as being:

- making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
- job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices ... the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities. Title 42, Chapter 126 U.S.C. § 12111(9).

A full text of the Americans with Disabilities Act, and materials concerning its interpretation, can be obtained from the EEO Officer, Room 1920 or the EEO Coordinator, Room 1938. Employees who believe they are covered by the definition and who wish to identify themselves so that reasonable accommodations may be made may contact the EEO Officer or the EEO Coordinator.

#### Issues Related to Disabilities

Cynthia Aker is the 55-a Coordinator and is responsible for ensuring that the Office complies with laws designed to protect disabled employees.

#### Temporary or Permanent Accommodations

The law requires that reasonable accommodations be made for disabled employees who are capable of performing the essential functions of the job in question unless providing such accommodation would impose an undue hardship. The law also requires that reasonable accommodations be made for employees' religious observances. Any employee who wishes to request an accommodation should contact Ms. Laxer or Ms. Aker.

#### Executive Order No. 16-Single

##### Sex Bathroom Policy

As of March 7, 2016, all city agencies are now required to ensure that city employees and members of the public have access to single-sex facilities such as bathrooms and locker rooms in city buildings without being required to show identification, medical documentation or any proof of gender identity.

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### **Discrimination and Harassment Complaint Procedures**

It is the policy of the Office to resolve all complaints of discrimination and harassment promptly and in accordance with the governing law. Employees are urged to follow the complaint procedure whenever they have a complaint or are aware of a problem involving discrimination or harassment within the office. Those accused of discrimination or harassment have a right to respond, in writing, to the allegations.

**Eric Gonzalez  
District Attorney  
October, 2018**

# THE KINGS COUNTY DISTRICT ATTORNEY'S OFFICE

## Equal Employment Opportunity

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### Complaint Procedures

**Eric Gonzalez**  
District Attorney



**The following pages include:** When, where and how to file an EEO Complaint, including contact information for the KCDA EEO Officer, EEO Coordinator and EEO Counselors; the process once a complaint is filed; other agencies outside of KCDA where an EEO complaint can be filed; and the KCDA EEO complaint form.

## **When to File an EEO Complaint**

**A.** An EEO complaint should be filed if an employee believes they have been discriminated against by a manager, supervisor or another employee because of:

- Race
- Color
- National Origin (including alienage, ancestry and citizenship status)
- Religion
- Creed
- Age (18 and over)
- Disability
- Sex
- Gender<sup>1</sup>
- Sexual Orientation
- Marital Status
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- Military Status
- Status as a Victim of Domestic Violence, Sex Offense or Stalking
- Caregiver Status
- Unemployment Status
- Consumer Credit History
- Familial Status<sup>2</sup>

**B.** An employee should file a complaint if they feel that they have been sexually harassed by a manager, supervisor or another employee.

**C.** An employee should file a complaint if they believe that a manager, supervisor or another employee has harassed them or retaliated against them because they filed a discrimination complaint or cooperated in the investigation of a complaint.

### **Federal, State and City law prohibits the following types of discrimination:**

- Discriminatory treatment of employees in hiring, assignments, working conditions, salary and benefits, performance evaluations, promotions, training, transfers, discipline, terminations and any other terms and conditions of employment.
- Policies that have a disproportionate impact on a group protected by law, unless they are justified by business necessity.
- Failure to make a reasonable accommodation for an employee with a disability or for an employee's religious observance.
- Discriminatory harassment, intimidation, ridicule or insults.

<sup>1</sup>Including 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.

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Commission  
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NY, NY 10007  
212-306-7450

25 Chapel Street  
Suite 1001  
Brooklyn, NY 11201  
718-722-3130

[www.nyc.gov/cchr](http://www.nyc.gov/cchr)

**New York State  
Division of Human  
Rights**

163 West 125th Street  
4th Floor  
NY, NY 10027  
212-961-8650

55 Hanson Place  
Room 304  
Brooklyn, NY 11217  
718-722-2385

[www.dhr.ny.gov](http://www.dhr.ny.gov)

**United States Equal  
Employment  
Opportunity  
Commission  
New York District  
Office**

33 Whitehall Street  
11th floor  
NY, NY 10004  
212-336-3620  
[www.eeoc.gov](http://www.eeoc.gov)

**United States  
Department of Labor  
Office of Federal  
Contract Compliance  
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201 Varick Street  
Room 750  
NY, NY 10014  
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- **Office of Federal Contract Compliance Programs:** within 180 days, 41 CFR § 60 1.21 (1990).

## KCDA Complaint of Discrimination Form

A complaint of discrimination may also be made in person, by telephone or email. Please print the following information:

Name \_\_\_\_\_

Civil Service Title \_\_\_\_\_

Office Title \_\_\_\_\_

Bureau/Department \_\_\_\_\_

Your Supervisor \_\_\_\_\_

Your Office Location \_\_\_\_\_

Your Home Address \_\_\_\_\_

Office Telephone \_\_\_\_\_ Home Telephone \_\_\_\_\_

Email Address \_\_\_\_\_

### **What is the alleged basis of discrimination? (Check any which apply):**

Age \_\_\_\_\_ Pregnancy \_\_\_\_\_ Color \_\_\_\_\_ Creed \_\_\_\_\_

Prior record of arrest or conviction \_\_\_\_\_ Race \_\_\_\_\_

Disability \_\_\_\_\_ Religion \_\_\_\_\_

Domestic Partnership Status \_\_\_\_\_

Gender, including gender identity \_\_\_\_\_

Genetic predisposition \_\_\_\_\_ Marital Status \_\_\_\_\_

Military Status \_\_\_\_\_

Retaliation for filing/assisting in the investigation of complaint \_\_\_\_\_

Sexual Harassment \_\_\_\_\_ Sexual Orientation \_\_\_\_\_

Status as a Victim of Domestic Violence, Sex Offense or Stalking \_\_\_\_\_

National Origin, including alienage, ancestry or citizenship status \_\_\_\_\_

Other \_\_\_\_\_

(Please provide name)\_\_\_\_\_

Where did it happen? \_\_\_\_\_

Were there witnesses to the discrimination?  
(Please provide their names) \_\_\_\_\_

**Have you filed a complaint about the alleged discrimination with any of the following agencies? If so, please state the date and number of the complaint.**

- New York City Commission on Human Rights \_\_\_\_\_
- New York State Division of Human Rights \_\_\_\_\_
- United States Equal Employment Opportunity Commission  
\_\_\_\_\_
- United States Department of Labor \_\_\_\_\_

**Describe what you believe are the unfair things that happened to you, and how other persons were treated differently. This statement may be amended to correct mistakes or omissions. Please use extra pages if necessary.**

**What corrective action do you want taken?**

[illegible]

**[www.brooklynda.org](http://www.brooklynda.org)**





Sasha Neha Ahuja  
Chair

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

Charise L. Terry  
Executive Director

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

253 Broadway  
Suite 602  
New York, NY 10007

212. 615. 8939 tel.  
212. 676.2724 fax

**BY EMAIL**

November 10, 2020

Eric Gonzalez  
District Attorney  
Office of the Kings County District Attorney  
350 Jay Street  
Brooklyn, NY 11201

Audit Status:  
Evaluation of Sexual Harassment Prevention and Response Practices for Audit  
Period January 1, 2018 to December 31, 2019.  
Determination: **FINAL**  
Resolution #: 2020AP/244-903-(2020)

Dear District Attorney Gonzalez:

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: October 21, 2020  
No Response Received.

**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 Kings County District Attorney's Sexual Harassment Prevention and Response Practices.

As the Office of the Kings 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 standards<sup>1</sup> to this end. The purpose of this Final Determination, as authorized by Charter Chapter 36, Section 832(c), is to determine the sufficiency of the Office of the Kings 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: December 1, 2020 to May 31, 2021. Correcting all outstanding areas of non-compliance without delay is highly encouraged and will serve to shorten this period.**

***If corrective actions remain:*** Corrective actions will be listed under the *Monitoring Required* section of the attached Final Determination. The EEPC requires that the agency head submit a signed response to this Final Determination. The signed response should indicate what steps the Office of the Kings 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 Kings County District Attorney will be monitored monthly until all outstanding areas of non-compliance have been sufficiently corrected. The Office of the Kings 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 Kings County District Attorney's implementation of the final corrective action, if any, the EEPC requires that the Office of the Kings 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 Kings 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 Kings County District Attorney will be exempt from the abovementioned compliance-monitoring period.

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

**Conclusion**

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

Thank you and your staff for your continued cooperation.

Sincerely,



Charise L. Terry  
Executive Director

c: Nicole Chavis, Interim Principal EEO Professional, Office of the Kings County District Attorney

Enclosed: TeamCentral Agency Manual

#### FINAL DETERMINATION

A response indicating progress of the Office of the Kings 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 response<sup>2</sup> (if applicable) to the EEPC's Preliminary Determination, our Final Determination is as follows:

#### Monitoring Required

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

**Corrective Action #1:** 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: No optional response received.

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

**Corrective Action #2:** 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: No optional response received.

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

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



**Corrective Action #3:** 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:** No optional response received.

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

**Corrective Action #4:** 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:** No optional response received.

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

**Corrective Action #5:** 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:** No optional response received.

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

**Corrective Action #6:** 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:** No optional response received.

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

**Corrective Action #7:** 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:** No optional response received.

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

**Corrective Action #8:** 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:** No optional response received.

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

**Corrective Action #9:** 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:** No optional response received.

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

**Corrective Action #10:** 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:** No optional response received.

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

**Corrective Action #11:** 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:** No optional response received.

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

**Corrective Action #12:** Appoint a principal EEO Professional to implement EEO policies and standards within the agency. Ensure the principal EEO Professional is trained regarding city, state, federal EEO laws; the requirements of the agency's EEO policies, standards and procedures; and the prevention, investigation, and resolution of discrimination and sexual harassment complaints.

**Agency Response:** No optional response received.



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

**Corrective Action #13:** Where the agency's organizational structure necessitates multiple EEO professionals, select such individuals from different office locations and, where possible, from a variety of levels within the organizational structure. Appoint EEO professionals who are trained in EEO laws and procedures, and their responsibilities under the EEO Policy.

Agency Response: No optional response received.

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

**Corrective Action #14:** Maintain documentation regarding directives or decisions between the agency head (or a direct report other than the General Counsel) and the principal EEO Professional that impact the administration and operation of programs, policies or procedures concerning sexual harassment.

Agency Response: No optional response received.

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

**Corrective Action #15:** 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: No optional response received.

EEPC Response: 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/244-903-(2020)  
Office of the Kings County District Attorney  
District Attorney Eric Gonzalez  
Sexual Harassment Prevention and Response Practices  
DETERMINATION: FINAL**

**S Y N O P S I S**

<b>Corrective Action(s):</b>	<b>Total: 15</b>	
<b>Period Audit Covered:</b>	December 1, 2018 to January 31, 2019	
<b>Preliminary Determination Issued:</b>	October 21, 2020	No Response Received
<b>Final Determination Issued:</b>	November 10, 2020	Response Due December 10, 2020
<b>Compliance-Monitoring:</b>	Required	December 1, 2020 to May 31, 2021

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

**Whereas**, pursuant to the audit, review, and evaluation of the Office of the Kings County District Attorney’s Sexual Harassment Prevention and Response Practices, the EEOC issued a Preliminary Determination, dated October 21, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:



1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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 relevant facts gathered, a determination, a recommendation and documentation of the Agency Head’s Review.
8. 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.
9. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
10. 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.

11. 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.
12. 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.
13. 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.
14. 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.
15. 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 did not submit a preliminary response; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPC issued a Final Determination on November 10, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPC assigned a monitoring period from December 1, 2020 to May 31, 2021, to determine whether the entity eliminated areas of non-compliance, if any; and

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

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), on November 10, 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 Eric Gonzalez to assign compliance-monitoring.

Approved unanimously on November 19, 2020.

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/s/Sasha Neha Ahuja	/s/Angela Cabrera
Sasha Neha Ahuja	Angela Cabrera
Chair	Commissioner
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/s/Arva R. Rice	/s/Elaine S. Reiss
Arva R. Rice	Elaine S. Reiss, Esq.
Commissioner	Commissioner

On behalf all Commissioners in attendance,

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Charise L Terry  
Executive Director



**Eric Gonzalez**  
District Attorney

**DISTRICT ATTORNEY  
KINGS COUNTY**  
350 JAY STREET  
BROOKLYN, NY 11201-2908  
(718) 250-2000  
WWW.BROOKLYNDA.ORG

December 10, 2020

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

Dear Ms. Terry,

I am writing in response to the Final Determination of the Sexual Harassment Prevention and Response Practices Audit issued by your agency. I respectfully disagree with many of the findings issued by the Equal Employment Practices Commission. My office has complied with the policies and procedures governing Equal Employment Opportunities and Sexual Harassment Prevention and Responses.

Below you will find a detailed response to each corrective action suggested by the EEPC:

**Issue 1:** Issuance, Distribution and Posting of EEO Policies (Pg. 3)

Corrective Action #1: Distribute/Post a paper or electronic copy of the Equal Employment Opportunity Policy, Standards & Procedures to be utilized by the Agency.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #1. A copy of our EEO policy is located on the Office's Intranet. All employees are given reminders of this. Additionally, the policy is sent to each employee periodically via email. Further, a paper copy is posted on all employee bulletin boards throughout the Agency as well as on the Agency's website.

**Issue 2:** Training for the Agency (Pg. 5)

Corrective Action #2: 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.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #2. All employees, which include new hires and interns, are required to take an EEO, Sexual Harassment Prevention, and a LGBTQ computer-based training. The EEO office works with the Employee Services Department to ensure each employee is in compliance.

**Issue 3:** Complaint and Investigation Procedures (Pg. 6)



Corrective Action #3: 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.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #3. A written statement of the facts alleged by the complainant is recorded and kept in the file. This statement includes all pertinent dates, identifies the respondent(s) and provides the essence of the circumstances which gave rise to the complaint.

Corrective Action #4: Serve the respondent with a notice of the complaint that include 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

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #4. The Respondent is in fact given notice of the allegations and is given an opportunity to respond to said allegations. The notification date is documented and is kept in the complaint file.

Corrective Action #5: 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.

**RESPONSE:** The Kings County District Attorney's Office is in compliance with Action #5. The conclusive report is issued timely (within 90 days). Though there was a delay in a small number of the reports issued during the 2018 – 2019 period, these delays were explained to the parties. Additionally, we have always immediately commenced investigations where warranted.

Corrective Action #6: 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.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #6. Both complainants and respondents are timely notified as to any issues which may cause a delay in the complaint investigation process. The parties are fully apprised as to the cause of the delay and are kept informed as to the next steps in the complaint process.

Corrective Action #7: 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.

**RESPONSE:** The Kings County District Attorney's Office is in compliance with Action #7. At the conclusion of every investigation, a conclusive confidential report which includes a summary of the allegations and responses, procedural history of the investigation, statement of relevant facts, a determination, a recommendation and documentation of the District Attorney or his designee's review is prepared and documented in the file. There were a small number of cases where this did not occur during the 2018-2019 time period. This has been corrected.



Corrective Action #8: 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.

**RESPONSE:** The Kings County District Attorney's Office is in compliance with Action #8, though there were a small number of cases where this did not occur during the 2018 – 2019 period. This has been corrected. The District Attorney or his designee review the conclusive confidential report. A written determination adopting, rejecting or modifying the recommended action is prepared. The report is reviewed and signed. A copy of the signed report is documented in the file.

Corrective Action #9: Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the Agency's complaint procedure.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #9. All participants in the investigation including the complainant and respondent are provided with a written finding of the outcome of the investigation.

Corrective Action #10: 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 complaint.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #10. The Bureau Chief of Civil Litigation Bureau works closely with the EEO Professional and provides consultation of all external and internal complaints and/or litigation involving sexual harassment and all other EEO matters.

**Issue 4:** Annual Review of Practices, Policies and Programs (Pg. 12)

Corrective Action #11: 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.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #11. The principal EEO Professional, HR Professional and Chief of Staff communicate regularly to review the number of sexual harassment complaints; agency employment practices, and policies and programs to determine if there are any barriers to employment opportunities that may be related to sexual harassment. All necessary action is taken if needed.

**Issue 5:** Responsibility for Implementation – EEO Professionals (Pg. 13)



Corrective Action #12: 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.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #12. [REDACTED] was the EEO Officer for the agency during the 2018- 2019 audit time period. She remained in that role until her retirement during the Global Pandemic. [REDACTED] has since been appointed to that role as the principal EEO Professional assigned to implement EEO policies and standards within the Agency. She is well versed in the city, state and federal laws; knowledgeable of the Agency's EEO policies and procedures; and, the prevention, investigation and resolution of discrimination and sexual harassment complaints.

Corrective Action #13: Where the Agency's organization structure necessitates multiple EEO Professionals, select such individuals from different Office location 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.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #13. We have trained and appointed a number of EEO professionals to ensure that any employee who has a desire to file a complaint is able to do so with ease. There are ten (10) EEO Counselors all representing different professional levels and titles within the agency; one (1) EEO Coordinator and one (1) EEO Officer. All of the EEO Professionals are trained in EEO laws and the Agency's programs, policies and procedures.

Corrective Action #14: 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.

**RESPONSE:** We disagree with the above finding. The Kings County District Attorney's Office is in compliance with Action #14. The Principal EEO Professional, the District Attorney and his designee are in continuous communication regarding all directives and/or decisions that would impact the administration and operation of programs, policies and procedures within the Agency.

Corrective Action #15: 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.

**RESPONSE:** Though no Annual Plan was submitted during the 2018 – 2019 time period, we are committed to providing equal employment opportunities and prevent sexual harassment within the agency. It should be noted that the Kings County District Attorney's Office had no breakouts of sexual harassment complaints in the 2018-2019 time period; as such there were none to report. We will create a plan to reinforce our commitment to our employees as it relates to these matters.

Should you have any additional questions or concerns please feel free to reach out to my office.

Sincerely,

A handwritten signature in black ink that reads "Eric Gonzalez". The signature is written in a cursive, flowing style.

Eric Gonzalez  
District Attorney





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  
Suite 602  
New York, NY 10007

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

BY EMAIL

September 15, 2021

Eric Gonzalez  
District Attorney  
Office of the Kings County District Attorney  
350 Jay Street  
Brooklyn NY 11201

Re: Resolution #2020AP/251-903-(2021)PC47  
DETERMINATION: Partial-Compliance

Dear District Attorney Gonzalez:

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 require 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.

After reviewing the Team Central status updates submitted by the Office of the Kings County District Attorney during the assigned compliance monitoring period with extension (December 2020 – July 2021), to date the EEPC has determined that the Office of the Kings County District Attorney did not implement the following six (6) corrective actions:

**Corrective Action #2:** 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.

**Corrective Action #4:** 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.

**Corrective Action #10:** 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.

**Corrective Action #11:** 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.

**Corrective Action #14:** 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.

**Corrective Action #15:** 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.

In a letter dated March 5, 2021, the EEPC requested that the Office of the Kings County District Attorney submit documentation demonstrating implementation of the remaining corrective actions, on or before August 1, 2021, to avert the issuance of a *Determination of Partial-Compliance*. After a remote meeting with representatives of the Office of the Kings County District Attorney on June 15, 2021, in a letter dated June 23, 2021, the EEPC advised the Office of the Kings County District Attorney that the Board of Commissioners voted to extend the Office of the Kings County District Attorney's assigned compliance-monitoring period to July 31, 2021 to enable the entity to continue the process of uploading documentation pertaining to its sexual harassment policies and procedures.

In a letter dated July 30, 2021, the EEPC advised the Office of the Kings County District Attorney that, in the absence of documentation demonstrating implementation of the remaining corrective actions, the EEPC would be forced to issue the Office of the Kings County District Attorney a *Determination of Partial-Compliance*. Despite the additional time, the Office of the Kings County District Attorney did not implement the remaining corrective actions. To date, the Office of the Kings County District Attorney successfully implemented nine of fifteen (9 of 15) prescribed corrective actions. Accordingly, the EEPC's Board of Commissioners has issued the enclosed *Determination of Partial-Compliance* and will conduct a follow-up audit within one (1) year to assess whether and





how the Office of the Kings County District Attorney has implemented the above-referenced corrective actions.

In addition, this correspondence serves as notification to the Office of the Kings County District Attorney that the EEPC may also exercise the option to publish a report of the EEPC's findings, as delineated in Section 832(c), Chapter 36 of the New York City Charter.

Sincerely,

A handwritten signature in black ink, appearing to read "Aldrin Rafael Bonilla". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Aldrin Rafael Bonilla  
Chair

Enc.

cc: Martiza Ming, Chief of Staff, Office of the Kings County District Attorney  
Nicole Chavis, EEO Officer, Office of the Kings County District Attorney  
Cynthia Aker, EEO Coordinator, Office of the Kings County District Attorney  
Jeanne M. Victor, Executive Director, EEPC  
Jennifer Shaw, Esq., Executive Agency Counsel/Director of Compliance, EEPC  
William Peterson, Manager, Labor Relations Analysis and Audit, EEPC  
Samantha Tarallo, EEO Program Analyst, EEPC

**Monitoring of Sexual Harassment Prevention and Response Practices**  
**RESOLUTION NO.**

**2020AP/251-903-(2021)PC47**  
**Office of the Kings County District Attorney**  
**District Attorney Eric Gonzalez**  
**DETERMINATION: PARTIAL-COMPLIANCE**

**SYNOPSIS**

<b>Corrective Action(s):</b>	Total: 15
<b>Period Audit Covered:</b>	January 1, 2018 to December 31, 2019
<b>Preliminary Determination Issued:</b>	October 21, 2020      No Response Received
<b>Final Determination Issued:</b>	November 10, 2020      Response Received      December 10, 2020
<b>Compliance-Monitoring:</b>	Required      December 1, 2020 to July 31, 2021 with extension

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

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

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

**Whereas**, the EEPC conducted an audit, review, and evaluation of the Office of the Kings County District Attorney's Sexual Harassment Prevention and Response Practices; and

**Whereas**, pursuant to the audit, review, and evaluation of the Office of the Kings County District Attorney's Sexual Harassment Prevention and Response Practices, the EEPC issued a Preliminary Determination, dated October 21, 2020, setting forth findings and the following corrective actions required to remedy areas of non-compliance:



1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. Inform each complainant and respondent of the conclusion and outcome of their complaint investigation in writing as part of the agency's complaint procedure.
10. 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.

11. 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.
12. 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.
13. 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.
14. 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.
15. Submit to the EEPD 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 EEPD's Preliminary Determination, the entity did not submit a preliminary response; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), after consideration, the EEPD issued a Final Determination on November 10, 2020, which indicated that the following areas required corrective action: no(s). 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), in the Final Determination, the EEPD assigned a monitoring period from December 1, 2020 to May 31, 2021, to determine whether the entity eliminated areas of non-compliance, if any; and

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

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), on December 10, 2020, the entity issued a response to the EEPD's Final Determination; and

**Whereas**, in accordance with Charter Chapter 36, Section 832(c), the Office of the Kings County District Attorney's compliance-monitoring period was scheduled to end on May 31, 2021; and

**Whereas**, via two (2) letters to representatives at the Office of the Kings County District Attorney, the EEPD expressed its concern at the entity's progress toward implementing the assigned



fifteen (15) corrective actions; and

**Whereas**, after a remote meeting with representatives of the Office of the Kings County District Attorney, and at the entity's request, the compliance-monitoring period was extended to July 31, 2021; and

**Whereas**, to date, the Office of the Kings County District Attorney demonstrated its implementation of nine (9) corrective actions and had not remedied six (6) areas of non-compliance; Now Therefore,

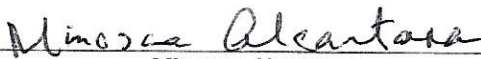
**Be It Resolved**, that the Office of the Kings County District Attorney has not satisfied the equal employment standards set by the EEPD pursuant to its authority under New York City Charter Chapters 35 and 36; and

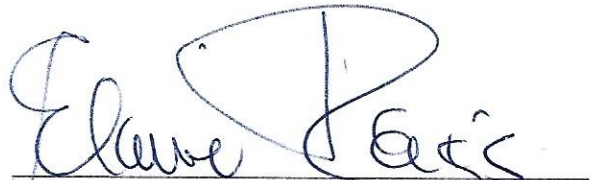
**Be It Resolved**, pursuant to Charter Chapter 35, Sections 815(a)(15) and (19), which require agency heads to ensure and promote equal opportunity for all persons in appointment, payment of wages, development, and advancement, and to establish measures and programs to ensure a fair and effective affirmative employment plan to provide equal employment opportunity for minority group members and women, the EEPD's Board of Commissioners approves the issuance of this **Determination of Partial-Compliance** to District Attorney Eric Gonzalez of the Office of the Kings County District Attorney; and

**Be It Resolved**, that pursuant to Charter Chapter 36, Section 832(c), the EEPD may publish a report regarding the Office of the Kings County District Attorney's Partial-Compliance with the EEPD's equal employment opportunity standards and the requirements of Charter Chapter 36; and

**Be It Resolved**, that pursuant to Charter Chapter 36, Section 831(d)(5), the EEPD will initiate a follow-up audit within one (1) year to assess the Office of the Kings County District Attorney's implementation of the assigned corrective actions pertaining to its sexual harassment prevention and response practices.

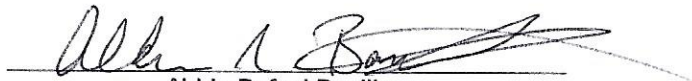
Approved unanimously on September 15, 2021.

  
Minosca Alcantara  
Commissioner/Mayoral Appointee

  
Elaine S. Reiss, Esq.  
Commissioner/Mayoral Appointee

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Vacant  
Commissioner/City Council Appointee

\_\_\_\_\_  
Vacant  
Commissioner/City Council Appointee

  
Aldrin Rafael Bonilla  
Chair/Commissioner/Joint Appointee