

EPT 2017-2020 Report Response

Pursuant to Local Law 47 of 2021, the NYPD engaged an external consultant to review a sample of investigations performed by the Department's Equal Employment Opportunity Division between October 1, 2017, and October 31, 2020. That consultant, EPT, previously issued its report and made several recommendations to the Department. Below is the Department's response to those recommendations.

RECOMMENDATIONS FROM EPT

- **The policies provide varying “statute of limitations” for internal complaints – we recommend removing these limitations.**

The Department is not precluded from investigating complaints based on the statute of limitations. The statute of limitations is only referenced to ensure that employees are aware how a legal claim in court or an external remedy may be impacted. The policy is being updated to clarify this.

- **The policies provide various options for complaint intake; however, the Patrol Guide mentions anonymous reporting solely for “non-supervisory” employees, which is not referenced in any of the other governing policies. We recommend the removal of this limitation.**

Any employee alleging that he or she is the subject of discrimination, harassment and/or retaliation may file a complaint with OEEEO anonymously, including supervisors. However, consistent with DCAS policy, because supervisors are mandated reporters, they cannot report EEO allegations on behalf of others anonymously.

- **The policies governing logistics for witness interviews are generally adequate. However, they would benefit from revision to allow employees to participate in an investigation during paid time without informing their supervisors of their whereabouts.**

The Department will consider this recommendation. Currently, if needed, employees may request paid time to participate in an investigation. Such requests are reviewed on a case-by-case basis.

- **While the EEOD uses qualified and impartial investigators in compliance with applicable legal and industry standards, the policies could benefit from revision to address potential conflicts of interest and steps to take when a conflict is identified.**

This is already Department policy. Every employee assigned to OEEEO is required to sign a confidentiality agreement and a notification of conflicts of interest form upon joining the office. All OEEEO staff members who encounter a potential conflict of interest must immediately notify the office's executive staff. Any employee with an actual, potential or perceived conflict

of interest with a particular matter is immediately recused from participating in the investigation associated with such conflict, as directed on the form which also provides examples of situations that may result in a conflict of interest.

Further, complainants are provided with written information on how they may file with other agencies, including the New York Human Rights Commission and the EEOC, should they wish to pursue complaint-filing avenues outside of the Department.

- **The 14-day advance notice to respondents in writing of the details of the allegations, while consistent with DCAS EEO Policy, is not standard in investigations where there is no legal requirement for such notice. We recommend removing this provision if possible.**

The Department has implemented this recommendation.

- **NYPD Procedures require (by following DCAS EEO Policy) that investigators make findings supported by a preponderance of the evidence and documented in a report; it would be helpful for NYPD procedures to provide for the evidentiary standard directly, as well as require investigators to cite the evidentiary standard in their investigation reports.**

The Department has implemented this recommendation.

- **We recommend that the NYPD consider removing the “affects other members” language from the “Notice of Complainant’s Rights” to inform complainants that an investigation may continue even after a complaint is withdrawn.**

The Department accepts this recommendation and will remove the referenced language.

- **We recommend streamlining the review process and setting specific deadlines within the 90-day period, such as 14 days to complete the review after the investigator makes a finding. In support of this, it would be beneficial to update the policy to provide for internal (possibly automated) case management which helps track delays and deadlines and allows investigators to note the reasons for any deviation from expected timelines.**

The Department accepts this recommendation. OEEO has implemented internal benchmarks, including a 14-day review period upon receipt of investigative decision drafts. Additionally, these internal benchmarks will be incorporated into OEEO’s requested case management system to allow for real-time updates and tracking on any deviations from internal deadlines.

- **The NYPD's policies regarding the treatment of withdrawn complaints are unclear. Consider revising the language in the Notice of Complaint's Rights to align with the NYPD EEO Policy and the DCAS EEO Policy.**

The Department has implemented this recommendation.

- **Our review showed that, for the most part, the median case duration for all EEO cases is 90.5 days, which is in line with industry standards and the DCAS-stated timeline of 90 days. However, it appears that the Department could improve its timeliness overall, especially for substantiated cases.**

The Department is in agreement with the recommendation to improve the median case duration and is implementing several changes to ensure that cases are resolved in a timely manner.

- **While the NYPD's policy provides for prompt investigation of complaints in conformance with industry standards, its procedures also require several layers of review, which may undermine this goal.**

The Department is reviewing this recommendation. The Department's multi-level review is designed to ensure that senior EEO executives review the findings and thoroughness of investigations before a final determination is issued.

The Department has been able to substantially reduce the time period required for investigations while maintaining the review process.

The Department appreciates the opportunity to review and respond to the issues identified by EPT regarding the Department's OEEEO practices from 2017-2020. The Department remains committed to carefully incorporating the Report's recommendations and lessons learned into its ongoing efforts to strengthen its policies, procedures and oversight.