

EQUAL EMPLOYMENT PRACTICES COMMISSION

CITY OF NEW YORK

RESOLUTION #12/24-BERS: Preliminary Determination Pursuant to the Audit of The Board of Education Retirement System (BERS) and its compliance with its Equal Employment Opportunity (EEO) Policy and Federal, State and City equal employment opportunity requirements for the period from January 1, 2009 to December 31, 2011.

Whereas, pursuant to Chapter 36, Section 831(d)(2) of the New York City Charter, the Equal Employment Practices Commission (EEPC) is authorized to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to insure fair and effective equal employment opportunity for minority group members and women and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 35, Section 814(a) (12) of the New York City Charter, the City established the Citywide Equal Employment Opportunity Policy (EEOP), a set of uniform standards and procedures designed to ensure the equality of opportunity for municipal government employees and job applicants, and, consistent with federal, state and local laws, identified other groups for protection from discrimination in employment; and

Whereas, the Equal Employment Practices Commission audited the BERS' Equal Employment Opportunity Program; and

Whereas, in accordance with Chapter 36, Section 832(c) of the City Charter, the EEPC may make a preliminary determination pursuant to Section 831(d) that any plan, program, procedure, approach, measure or standard adopted or utilized by any city agency does not provide equal employment opportunity. Now, Therefore,

Be It Resolved, that pursuant to the audit of the BERS' compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in City guidelines, the Equal Employment Practices Commission hereby affirms and adopts the following preliminary finding:

1. The BERS did not issue an agency-specific EEO Policy, a policy against sexual harassment; uniform complaint and reasonable accommodation procedures that conform to federal, city and state laws** prohibiting discrimination in employment; or adopt the *Citywide Equal Employment Opportunity Policy Standards and Procedures to be Utilized by City Agencies* (Citywide EEOP 2005).
2. The BERS did not issue a statement from the agency head reiterating commitment to EEO and listing the name and phone number of the EEO Officer.

** Federal: EEOC. City and State: NYC and State Human Rights Laws.

3. Although the agency reported that the Director of Administration, Personnel and Security acts as the agency's EEO Officer - responsible for complaint intake/investigation - there was no formal notification to employees of the appointment. In addition, the agency's organizational chart did not include the EEO Officer title or reporting relationship.
4. The EEO Officer did not complete Basic Training for EEO Representatives conducted by the Department of Citywide Administrative Services (DCAS) – Division of Citywide Diversity and Equal Employment Opportunity or training conducted by another appropriate agency or school.
5. The agency did not provide EEO training to its current and future employees during or after the audit period.
6. The agency did not designate, or secure per agreement between the agency and another City agency, an employee of each gender for complaint intake/investigation.
7. Although the agency's building entrance and elevators are accessible to employees/applicant for employment with disabilities, the facility's restrooms are not wheelchair accessible – there are no grab bars, wide stalls, or low sink or bathroom fixtures.

Be It Finally Resolved,

that the Commission authorizes the Chair, Cesar A. Perez, Esq., to forward a letter to Executive Director Christine Bailey formally informing her of the findings with appropriate explanations and recommendations and requesting, pursuant to Chapter 36 of the City Charter, a response to these findings within thirty days of receipt of the letter indicating what corrective actions the BERS will take to bring it into compliance with the aforementioned policies and standards on equal employment opportunity.

Approved unanimously on September 13, 2012.

Malini Cadambi Daniel
Commissioner

Angela Cabrera
Commissioner



Cesar A. Perez, Esq.
Chair

**EQUAL EMPLOYMENT PRACTICES COMMISSION
CITY OF NEW YORK**

RESOLUTION #2014/BERSC-12: Determination of Compliance (Monitoring Period Required) by the Board of Education Retirement System with the Equal Employment Practices Commission's required corrective actions pursuant to the audit and analysis of its Equal Employment Opportunity Program from January 1, 2009 through December 31, 2011.

Whereas, pursuant to Chapter 36, Section 831(d)(2) and (5) of the New York City Charter, the Equal Employment Practices Commission is authorized to audit and evaluate the employment practices, programs, policies, and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women, and to make recommendations to city agencies to insure equal employment opportunity for minority group members and women; and

Whereas, pursuant to Chapter 36, Section 831(d)(2), this Commission has adopted *Uniform Standards for EEPC Audits* and *Minimum Equal Employment Opportunity Standards for Community Boards* to assess agencies' EEO programs and policies for compliance with federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; and

Whereas, pursuant to its audit and analysis of the Board of Education Retirement System's (BERS) EEO Program, the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated September 13, 2012, setting forth the following findings and required corrective actions:

1. The agency should establish its own EEO Policy (EEOP) or adopt and distribute the Citywide EEOP – in paper or electronic copy – to legal, human resources and EEO representatives, as well as managers and supervisors. At minimum, the agency's EEOP should include, or attach as addenda: a policy against sexual harassment; uniform complaint and reasonable accommodation procedures that conform to Federal, City and State laws regarding discrimination in employment; contact information for the EEO Professionals; an up-to-date list of protected classes under NYC and NYS Human Rights Laws; and current contact information for federal, state and local agencies that enforce laws against discrimination.
2. The agency should use the distribution of the EEO Policy as an opportunity to issue a general EEO Policy statement or memo reiterating her commitment to EEO, declaring the agency's position against discrimination on any protected basis, advising employees of the names and contact information of EEO Personnel, and providing employees pertinent electronic links to the EEO Policy/Handbook/ Addenda.
3. Because the EEO Officer should report directly to the agency head (or to a direct report to the agency head), the agency should update its organizational chart to reflect this

reporting relationship.

4. Because EEO representatives should be trained in federal, state, and city EEO laws and procedures and know how to carry out their responsibilities under the agency's EEO Policy, the EEO Officer should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school. The EEO Officer should obtain a certificate of completion.
5. The agency should develop an EEO training plan to ensure that all individuals who work within the agency, including managers and supervisors, are trained concerning EEO-related policies, rights and responsibilities.
6. The agency head should appoint at least two EEO Representatives, who may not be of the same gender, to receive discrimination complaints and conduct investigations, or secure per agreement between the agency and another City agency, an employee of each gender for complaint intake/investigation.
7. The agency should develop a plan to demonstrate it is accessible to and usable by employees/applicants for employment with physical disabilities. The plan should identify the accessibility status of its restrooms; identify barriers and the efforts the agency has taken to determine whether removal of barriers is readily achievable, and if so, to remove them; identify the agency responsible (if not the auditee) for rendering each non-accessible facility accessible; and state whether the agency has applied to the Commissioner of the Department of Buildings for a waiver of the requirements for the alteration of existing buildings to render each non-accessible facility accessible for employees/applicants for employment with physical disabilities. The agency's plan will be reviewed during the compliance period. The agency should determine if its facilities are exempt from these requirements.
8. Since the Charter requires the agency head to ensure and promote equal employment opportunity, after implementation of the above recommendations, the agency head should distribute a memorandum to all staff informing them of the changes that have been implemented in the agency's EEO program pursuant to the EEPC's audit. This memorandum should re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

Whereas, the BERS submitted its response to the EEPC's preliminary determination letter, on October 16, 2012; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC considered the agency's response and issued a Final Determination on November 27, 2012; and

Whereas, the BERS did not submit a response to the EEPC's final determination letter; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City

Charter, the EEPC monitored the implementation of the remaining corrective actions from April 2013 to September 2013; and

Whereas, at the BERS' request, the Commission granted an extension of the monitoring period; and

Whereas, at the EEPC's request pursuant to Section 815.a.(15) of the New York City Charter, the BERS submitted a copy of the agency head's memorandum to staff dated April 17, 2014, which outlined the corrective actions implemented in response to the EEPC's audit and reiterated her commitment to the agency's EEO Program; and

Whereas, all of the EEPC's corrective actions are required by, or are consistent with, federal, state and local laws, regulations, policies and procedures which are designed to increase equality of opportunity for women, minorities, and other employees and job applicants identified for protection from discrimination in employment within municipal government; Now Therefore,

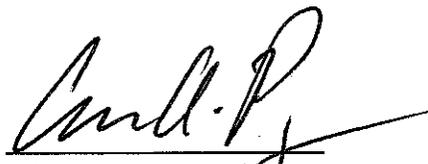
Be It Resolved,
that the Board of Education Retirement System has implemented the required corrective actions deemed necessary to ensure compliance with the equal employment opportunity standards of this Commission and requirements of Chapters 35 and 36 of the City Charter.

Be It Finally Resolved,
that the Commission authorizes Chair Cesar A. Perez, Esq., to forward this Determination to Christine Bailey, the Executive Director of the Board of Education Retirement System.

Approved unanimously on May 22, 2014.

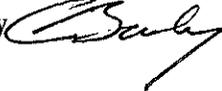
Elaine S. Reiss, Esq.
Commissioner

Arva R. Rice
Commissioner


Cesar A. Perez, Esq.
Chair



To: All Staff

From: Christine Bailey 

Date: April 17, 2014

Re: Equal Employment Practices Commission Audit

The Equal Employment Practices Commission (EEPC) conducts audits of the Equal Employment Offices of all city agencies. The audit specifically addressed a 6-month audit period from April 2013 through September 2013.

In cooperation with the EEPC, we have implemented the Commission's recommended enhancements and updates:

1. The Office of Equal Opportunity will provide a Non-Discrimination Policy, which will be supplied to all staff, including a uniform complaint investigation procedure. This will also allow an individual to fill out a complaint form, which will be supplied. Mr. Noro Healy will be the person responsible for handling reasonable accommodation requests and ensuring compliance with all federal, state and local laws, as well as City and agency policies, pertaining to persons with disabilities.
2. The general Equal Employment Opportunity policy statement of the Executive Director will be distributed to all employees of the Board of Education Retirement System (BERS).
3. BERS will provide training for all staff on EEO policies and regulations. This will include that all managers and supervisors will be directed to emphasize their commitment to the EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. This will occur in meetings that will be scheduled at least once a year. These meetings must be documented and submitted to the BERS' EEO Officers.
4. The organizational chart has been amended to show that the co-EEO Officers report directly to the agency head.

As the Executive Director of BERS, I reaffirm this agency's strong and continuing commitment to maintaining fair employment practices for all employees and job applicants. BERS is committed to preventing discrimination by ensuring that all employees are aware of their rights and obligations under this policy and encouraging a work environment that respects and values the diversity of our workforce.