

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

**RESOLUTION #03/07-868:** Preliminary Determination Pursuant to the Audit of the Office of Administrative Trials and Hearings (OATH) Equal Employment Opportunity Program from January 1, 2000 through June 30, 2002.

**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**, the Equal Employment Practices Commission audited OATH's 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 OATH's 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 findings:

1. The agency's EEO policy is not available in formats accessible to applicants and employees with disabilities, e.g., audiocassette and Braille.
2. The agency has not developed a plan, which includes a timeframe, to train all existing and new employees who have not already received EEO training.
3. The agency has not informed all employees in writing of the identity, location and telephone number of the career counselor.
4. The agency does not conduct annual performance evaluations for managerial staff.
5. The agency does not evaluate its supervisory staff on EEO.
6. Appropriate documentation of meetings between the EEO Officer and the director of the agency is not maintained.
7. The agency's EEO Officer does not devote 100% of her time to EEO matters.

8. The agency did not submit three quarterly and one annual report to the Department of Citywide Administrative Services or the EEPC following each reporting period.

**Be It Finally Resolved,**

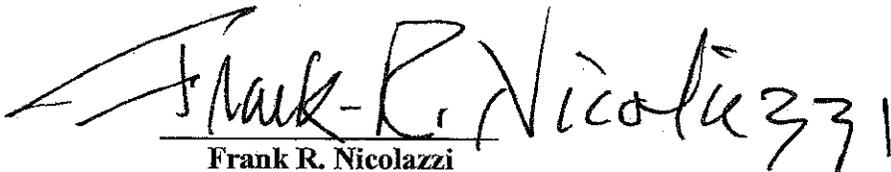
that the Commission authorizes the Vice-Chairman to forward a letter to OATH's Chief Administrative Judge, Roberto Velez, formally informing him of the findings with appropriate explanations and recommendations and requesting, pursuant to Chapter 36 of the City Charter, his response to these findings within thirty days of receipts of the letter indicating what corrective actions OATH will take to bring it into compliance with the aforementioned policies and standards on equal employment opportunity.

Approved unanimously on May 8, 2003.

**Angela Cabrera**  
Commissioner

**Manuel A. Mendez**  
Commissioner

**C. Catherine Rimokh, Esq.**  
Commissioner

  
**Frank R. Nicolazzi**  
Vice Chairman

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

**RESOLUTION #04/03-868C:** Determination of implementation by the Office of Administrative Trials and Hearings of the recommended corrective actions made by the Equal Employment Practices Commission pursuant to its audit of the Office of Administrative Trials and Hearings' Charter-mandated Equal Employment Opportunity Program from January 1, 2000 to June 30, 2002.

**Whereas**, pursuant to Chapter 36, Sections 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 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 its audit of the Office of Administrative Trials and Hearings (OATH), the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated May 8, 2003 setting forth its findings and recommended corrective actions; and

**Whereas**, in response to EEPC's preliminary determination letter, OATH submitted its response on July 31, 2003; and

**Whereas**, in accordance with Chapter 36, Section 832 (c) of the New York City Charter, the EEPC issued its final determination letter on August 6, 2003 identifying those recommendations accepted and rejected by OATH; and

**Whereas**, in response to EEPC's final determination letter, OATH submitted its response on August 27, 2003; and

**Whereas**, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC was required to monitor OATH for a period not to exceed six months, from September 2003 through February 2004, to determine whether it implemented the aforementioned recommended corrective actions; and

**Whereas**, the Office of Administrative Trials and Hearings submitted its Final Compliance Report on March 5, 2004, and additional documents on March 17, 2004; and

**Whereas**, all of the aforementioned recommended corrective actions are required by, or are consistent with, the City's Equal Employment Opportunity Policy; and

**Whereas**, the members of this Commission have reviewed a Compliance Summary Report, prepared by EEPC staff, affirming that all the aforementioned recommendations have been implemented. Now Therefore,

**Be It Resolved,**

that the Office of Administrative Trials and Hearings has implemented all nine recommended corrective actions deemed necessary to ensure compliance with equal employment opportunity pursuant to the requirements of Chapter 35 and 36 of the City Charter.

**Be It Finally Resolved,**

that the Commission authorizes the Vice-Chairman to forward a letter to Chief Administrative Law Judge Roberto Velez, of the Office of Administrative Trials and Hearings, formally informing him that his agency has implemented all nine recommended corrective actions to the Commission's satisfaction.

Approved unanimously on March 25, 2004

**Angela Cabrera C.**  
Commissioner

**Catherine Rimokh, Esq.**  
Commissioner

**Veronica Villanueva, Esq.**  
Commissioner



**Manuel A. Méndez**  
Vice-Chairman



THE CITY OF NEW YORK  
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

MEMORANDUM

TO: OATH Staff

FROM: Roberto Velez   
Chief Administrative Law Judge

DATE: October 2, 2003

RE: EEPAC Audit

As you may know, our agency has recently been the subject of an Equal Employment Opportunity audit conducted by the Equal Employment Practices Commission (EEPC) for the City of New York covering a thirty month period from January 1, 2000 to June 30, 2002. After auditing and evaluating OATH's employment practices, programs, policies and procedures to ensure fair and effective equal employment opportunity for minority group members and women, the EEPC determined that there were eight areas in which they recommended corrective actions be made.

The following are the recommended corrective actions from the EEPC's preliminary determinations and our responses:

1. OATH should ensure that its EEO policies are available in formats accessible to applicants and employees with disabilities, e.g. audiocassette and Braille. (Section VIII, Citywide EEO Policy).

*OATH currently has an audiocassette format and large print version of its EEO policy. With respect to a Braille format of the EEO Policy, OATH will rely on the use of the one created for the Department of Citywide Administrative Services' (DCAS) Office of Citywide Equal Employment Opportunity (OCEEO).*

2. OATH should develop a plan, which includes time frame, to train all existing and new employees who have not already received training. (Section IV, Citywide EEO Policy).

*OATH is committed to providing EEO training to its staff. OATH currently participates in DCAS' training program. In the past year we have had five non-managerial employees receive EEO training. This number includes four existing employees and one new employee. We have four employees who have not yet received training. These four employees will be trained this October by the EEO Officer at the Department of Consumer Affairs. In the future all new employees will participate in DCAS' training program shortly after they are hired.*

3. OATH should inform all employees in writing of the identity, location and telephone number of the career counselor. (Section VI, Citywide EEO Policy).

*All of OATH's employees have been notified in writing that John Stulgaitis, Executive Assistant to the Chief Judge, is the career counselor. In addition, employees were provided with Mr. Stulgaitis' office location and telephone number.*

4. All staff, managerial and non-managerial should receive annual performance evaluation. ("Personnel Rules and Regulations of NYC", p. 59; "Managerial Performance Guidelines for Evaluating Managerial Performance in NYC Agencies", p. 1; and Section VI(B)(7), EEOP).

*OATH will conduct performance evaluations of all staff, managerial and non-managerial, as required by DCAS policies and procedures.*

5. The evaluations of supervisors/managers should include an EEO component. (Section VII, EEOP).

*Any future performance evaluations of supervisors/managers will include an EEO component.*

6. Appropriate documentation of meetings on EEO matters between the EEO Officer and the director of the agency should be maintained. (Section VII, Citywide EEO Policy).

*Notes are currently being taken and maintained for all meetings on EEO matters between the Chief Judge and the EEO Officer.*

7. The agency's EEO Officer should devote 100% of her time to EEO matters.

*It is not feasible or economical, for an eighteen person agency to have one employee devote 100% of her time to EEO matters. It should also be noted that in OATH's twenty-four year history, there has never been an internal or external EEO complaint filed.*

8. Three quarterly reports and one annual report should be submitted to DCAS and the EEPC no later than thirty days following the reporting period. (Section VII, Citywide EEO Policy)

*OATH has started filing the quarterly and annual reports this year.*

OATH is currently in the last stages of the EEPC Audit process and is required to file monthly compliance reports for the next six months. The compliance reports will chronicle OATH's compliance with the recommended actions.

In the meantime, as Chief Administrative Law Judge, I reaffirm this agency's strong commitment to maintaining fair employment practices for all its employees and job applicants. All

personnel should work to maintain an atmosphere of appreciation of the diversity reflected in our staff and to comply with the letter and the spirit of OATH's EEO policy. OATH is committed to preventing discrimination by ensuring that all employees are aware of their rights and obligations under OATH's EEO Policy and by encouraging a work environment that tolerates and appreciates differences among employees.

If you have any questions about the audit and/or the EEPC's recommended actions please feel free to direct your comments or questions to our EEO Officer, Kara J. Miller.