

EQUAL EMPLOYMENT PRACTICES COMMISSION CITY OF NEW YORK

RESOLUTION #04/14-131: Preliminary Determination Pursuant to the Audit of the Office of Payroll Administration's Equal Employment Opportunity Program from July 1, 2001 through December 31, 2003.

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 the Office of Payroll Administration'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 did not provide equal employment opportunity. Now, Therefore,

Be It Resolved,

that pursuant to the audit of the Office of Payroll Administration's compliance with the City's Equal Employment Opportunity Policy (EEO), the Equal Employment Practices Commission hereby affirms and adopts the following preliminary findings:

1. The agency's General EEO Policy does not contain an up-to-date list of "protected classes" under the New York City Human Rights Law.
2. OPA's Discrimination Complaint Procedure contains out-of-date addresses and telephone numbers for the U.S. Equal Employment Opportunity Commission (EEOC) and the New York State Division of Human Rights.
3. EEO Counselors of both sexes were not available to investigate discrimination complaints.
4. The one internal discrimination complaint filed during the audit period was not handled in accordance with the Discrimination Complaint Procedures Guidelines, issued by the Department of Personnel (now Department of Citywide Administrative Services).
5. Fifty-one percent of survey respondents indicated that had not received sexual harassment prevention training.
6. Not all supervisors received structured interview training during the audit period.

7. The agency did not conduct adverse impact studies.
8. Seventy-eight percent of survey respondents indicated they do not know the name of the person responsible for providing career counseling.
9. Appropriate documentation of all meetings and other communications between the EEO Officer and agency head regarding EEO decisions was not maintained.
10. Supervisors and managers were not directed to discuss the agency's EEO policies with their subordinates.

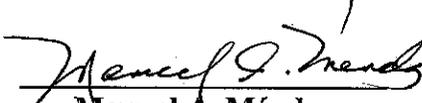
Be It Finally Resolved,

that the Commission authorizes the Vice Chair/Commissioner to forward a letter to Executive Director Joel Bondy 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 and receipt of the letter indicating what corrective actions the Office of Payroll Administration will take to bring it into compliance with the New York City Equal Employment Opportunity Policy.

Approved unanimously on December 13, 2004.

Chereé Buggs, Esq.
Commissioner

Veronica Villanueva, Esq.
Commissioner


Manuel A. Méndez
Vice-Chair

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

RESOLUTION #05/12-131C: Determination of implementation by the Office of Payroll Administration of the recommended corrective actions made by the Equal Employment Practices Commission pursuant to its audit of the Office of Payroll Administration's Charter-mandated Equal Employment Opportunity Program from July 1, 2001 to December 31, 2003.

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 Payroll Administration (OPA), the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated December 13, 2004, setting forth its findings and recommended corrective actions; and

Whereas, OPA submitted its response to EEPC's preliminary determination letter, on January 12, 2005; and

Whereas, in accordance with Chapter 36, Section 832(c) of the New York City Charter, the EEPC issued its response on February 11, 2005; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC was required to monitor OPA for a period not to exceed six months, from March 2005 through August 2005, to determine whether it implemented the aforementioned recommended corrective actions; and

Whereas, the Office of Payroll Administration submitted its Final Compliance Report on September 20, 2005; 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 the aforementioned recommendations have been implemented to the Commission's satisfaction. Now Therefore,

Be It Resolved,
that the Office of Payroll Administration has implemented the 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 Chair, Ernest Hart, Esq., to forward a letter to the Executive Director of the Office of Payroll Administration, Mr. Joel Bondy, formally informing him that OPA has implemented the recommended corrective actions to the Commission's satisfaction.

Approved unanimously on October 26, 2005.

Chereé A. Buggs, Esq.
Commissioner

Angela Cabrera
Commissioner

Manuel A. Méndez
Vice-Chair

Veronica Villanueva, Esq.
Commissioner



Ernest F. Hart, Esq.
Chair



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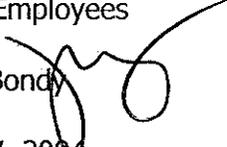
OFFICE OF PAYROLL ADMINISTRATION

One Centre Street, Room 200N, New York, New York 10007

JOEL BONDY
Executive Director

MEMORANDUM

To: OPA Employees

From: Joel Bondy 

Date: May 7, 2004

Subject: Equal Employment Opportunity Policy

The following is the Office of Payroll Administration's (OPA's) Equal Employment Opportunity Policy. This policy reflects the Federal, State, and local laws that prohibit discrimination in employment and the City of New York's Equal Employment Opportunity Policy. OPA is committed to preventing discrimination by ensuring that all employees are aware of their rights and obligations under this Policy and by encouraging a work environment that tolerates and appreciates difference among employees.

As Executive Director, 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 this policy. Managers and supervisors are directed to make all employment decisions in accordance with the agency's EEO Policy and to ensure compliance with this policy in their areas of responsibility.

The Policy provides that all employment decisions be made on the basis of equal opportunity and not on the basis of **age, alienage, color creed, disability, gender, marital status, national origin, prior arrest or conviction, race, religion, sexual orientation, or military status**. A description of the agency's procedure to address issues and complaints of illegal discrimination is also provided.

I encourage all employees to access the resources available within OPA to address any concerns you may have. The implementation of the agency's Equal Employment Opportunity Policy is one of OPA's highest priorities and has my full support.

Office of Payroll Administration: EEO Policy

A. General Anti-Discrimination Protections:

The Office of Payroll Administration (OPA) is an equal opportunity employer committed to compliance with federal, state, and local laws prohibiting employment discrimination. Employment decisions at OPA will be made on the basis of merit, fitness and equality of opportunity and without unlawful discrimination on the basis of:

- ▶ Age
- ▶ Alienage
- ▶ Color
- ▶ Creed
- ▶ Disability
- ▶ Gender
- ▶ Military Status
- ▶ Marital Status
- ▶ National Origin
- ▶ Prior Record of Arrest or Conviction
- ▶ Race
- ▶ Religion
- ▶ Sexual Orientation

In addition to providing protections on the basis of the above categories, some federal, state and local laws protect persons who are discriminated against because they are perceived to be in a protected class. Harassment based on a person's actual or perceived protected status is also prohibited.

Consistent with the law, reasonable accommodations will be made for persons with disabilities and for religious observance.

Anti-discrimination protections apply to all of the terms and conditions of employment, including, but not limited to:

- ▶ Recruitment
- ▶ Testing
- ▶ Hiring
- ▶ Work Assignments
- ▶ Salary and Benefits
- ▶ Performance Evaluations
- ▶ Promotions
- ▶ Training Opportunities
- ▶ Transfers
- ▶ Discipline
- ▶ Discharge
- ▶ Working Conditions

Where discrimination is suspected, employees are encouraged to use the agency's complaint and investigation procedures. Any person found to be engaging in discriminatory conduct or practices will be subject to discipline which may include a reprimand, suspension, probation, demotion, transfer, termination, and any other measures calculated to eliminate illegal or inappropriate behavior. In addition to implementing such disciplinary action, the agency shall take such steps as may be necessary to address the impact that any unlawful discrimination has had on the complainant.

Any employee or applicant who believes that s/he has been discriminated against should contact OPA's EEO Officer or an EEO Counselor for consultation and/or to file a complaint. All complaints will be handled confidentially.

OPA will make reasonable accommodations to qualified employees and applicants with disabilities, unless providing such accommodations would create undue hardship for the agency. Whether an accommodation is reasonable generally depends upon the circumstances of each situation. Some examples of accommodations which have been found reasonable for certain employers, under certain circumstances, include: job restructuring, making facilities physically accessible to and usable by persons with disabilities; modifying work schedules; providing or modifying equipment or devices; and providing auxiliary aides and services.

Employees with disabilities requesting reasonable accommodations to perform essential job functions should follow the agency's Reasonable Accommodation Procedure.

D. 55-a Program

Section 55-a of the New York State Civil Service Law permits the City to convert as many as 700 competitive civil service lines to non-competitive civil service positions for people who can perform the job in question as needed by the agency, but who are certified as having a disability. The City encourages conversion of lines to 55-a status where agency needs permit. Applications for such consideration may be obtained from **OPA's 55-a Coordinator:**

Elaine Doria
1 Centre Street, Room 200N
(212) 669-2098

E. Anti-Retaliation Policy

It is unlawful to retaliate against or harass any person for filing an EEO complaint, seeking a reasonable accommodation for a disability or a religious observance, or for cooperating in the investigation of an EEO complaint. The agency will not tolerate any such retaliation. Any person who believes that she/he is being retaliated against for having made a complaint, or for cooperating in an investigation, is urged to file a complaint of retaliation with the EEO Officer. Any employee who engages in such retaliation or harassment shall be subject to discipline, which may include reprimand, suspension, probation, demotion, transfer, fine or termination.

3. Meeting With The EEO Professional (Officers, Counselors or Investigators):

Any person who wishes to talk about a question or problem related to the agency's equal employment opportunity policy, or to file a complaint of discrimination, may contact one of the persons listed above. An employee is not required to consult only the EEO counselor who works in the employee's division.

An employee has a right to meet privately with an EEO professional during office hours, however, the employee should obtain approval for leaving his/her work assignment. An employee need not disclose the details of the purpose for meeting with an EEO professional to a supervisor. Reasonable leave requests to meet with an EEO professional during work hours cannot be denied by supervisors. Managers and supervisors shall allow employees to meet with EEO professionals at the earliest practicable time consistent with the operational needs of their units.

The EEO professional will arrange to meet with an employee at outside premises where necessary in order to ensure confidentiality. At the employee's request, arrangements may also be made to hold the meeting before or after office hours, or during the employee's lunch period.

An employee or applicant may bring a representative of his or her choice to the meeting, provided advance notice is given to the EEO Officer.

In addition, a person needing a sign language interpreter for a meeting concerning an EEO matter may request that the EEO Officer provide one.

4. Anonymous Complaints

Persons who wish to discuss a problem concerning discrimination without revealing their identity may do so by telephoning or writing the EEO Officer. Where necessary, communication may also be made through TTY, relay service or other alternate means. In such cases the EEO Officer will provide counseling and take such follow-up action as may be appropriate and possible given the restraints of anonymity. Anonymous complainants should be aware that it may be necessary for the EEO professional to investigate the alleged discriminatory behavior and to take or recommend action to remedy unlawful behavior on behalf of the agency and the City, even if the anonymous complainant wishes to withdraw his/her complaint.

5. Confidentiality

All EEO matters will be handled under the supervision of OPA's EEO Officer, in consultation with the agency Counsel's Office where appropriate. The EEO Officer will treat complaints and other information provided by employees confidentially.

This means that information obtained from a person who seeks the assistance of the EEO Officer will not be discussed with other personnel except as necessary to investigate and resolve a complaint or other matter.

A Complaint of Discrimination form shall also be completed by the EEO Officer when s/he initiates an investigation on his/her own initiative.

An investigation will be conducted by the EEO Officer or a person acting under the direction of the EEO Officer. In appropriate cases the investigation will be conducted in conjunction with the agency's Disciplinary Officer, General Counsel's Office and/or Inspector General.

If the EEO Officer receives a complaint of unlawful discrimination which alleges that the Commissioner has engaged, or is engaging, in unlawful discriminatory conduct, the EEO Officer shall notify the Office of the Deputy Mayor to whom the Commissioner reports.

Any person who is interviewed in the course of an investigation shall have the right to be accompanied by a representative of his or her choice.

A person who has been named as the respondent in the complaint of discrimination shall receive a copy of the complaint and shall have the opportunity to respond in writing.

The EEO Officer will make a confidential written report of the investigation to the Commissioner. If the EEO Officer concludes on the basis of the investigation that a violation of anti-discrimination laws or the agency's EEO policy has occurred, s/he shall recommend appropriate corrective action. The Commissioner will review the EEO Officer's report and take any corrective action that s/he deems appropriate. The EEO Officer will advise all parties in writing of the outcome of the complaint.

8. Discipline and Other Corrective Action:

The Commissioner will review the EEO Officer's report and take any corrective action that s/he deems appropriate. Corrective action may include disciplinary measures such as formal reprimand, suspension, probation, transfer, demotion, fine or termination.

Disciplinary measures shall be taken in accordance with any applicable provisions of law, rules and regulations, and collective bargaining agreements. Corrective action may also include measures necessary to address the impact that any conduct in violation of the law, City and the agency's policy has had on the complainant.

9. Withdrawing Complaints of Discrimination:

A complaint of discrimination may be withdrawn at any time by the person who filed the complaint. In most cases, the EEO Officer will find it appropriate to end the investigation when the complainant has withdrawn the complaint. However, prior to making the determination to end the investigation, the EEO Officer must assess whether evidence has been found which requires the agency to take corrective action to prevent or eliminate an illegal or inappropriate situation. If there is such evidence, the EEO Officer will continue the investigation until s/he is prepared to recommend whether the agency should take corrective action. In either event, the EEO Officer shall notify the respondent in writing that the complainant has withdrawn the complaint. The EEO Officer shall also notify the parties whether the investigation has been terminated or is continuing.