

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

RESOLUTION #02/07-101: Preliminary Determination Pursuant to the Audit of the Public Advocate's Office's Equal Employment Opportunity Program from July 1, 1999 through December 31, 2001.

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 Public Advocate's Office'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 Public Advocate's (PA) 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:

Although the Commission was informed by the immediate past EEO Officer that some limited EEO activities were undertaken by the previous administration, there is no documentation to support that claim.

Be It Finally Resolved,

that the Commission authorizes the Vice-Chairman to forward a letter to the Public Advocate, Betsy Gotbaum, formally informing her of the findings with appropriate explanations and recommendations and requesting, pursuant to Chapter 36 of the City Charter, her response to these findings within thirty days of receipt of the letter indicating what corrective actions the Public Advocate's Office will take to bring it into compliance with the aforementioned policies and standards on equal employment opportunity.

Approved unanimously on December 11, 2002.

**Angela Cabrera
Commissioner**

**Manuel A. Mendez
Commissioner**


**Frank R. Nicolazzi
Vice-Chairman**

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

RESOLUTION #04/17-101PC: Determination of implementation by the Public Advocate's Office of the recommended corrective actions made by the Equal Employment Practices Commission pursuant to its audit of the Public Advocate's Office's Charter-mandated Equal Employment Opportunity Program from July 1, 1999 to December 31, 2001.

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 Public Advocate's Office (PA), the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated December 11, 2002 setting forth its findings and recommended corrective actions; and

Whereas, in response to EEPC's preliminary determination letter, PA submitted its response on January 10, 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 February 28, 2003 identifying those recommendations accepted and rejected by PA; and

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

Whereas, on August 31, 2004 the Public Advocate's Office requested an extension of the compliance period; and

Whereas, the Public Advocate's Office submitted its Final Compliance Report on November 16, 2004; and

Whereas, the Public Advocate's Office submitted additional information on December 10, 2004; and

Whereas, the Public Advocate's Office implemented fifteen of seventeen recommended corrective actions; and

Whereas, the Public Advocate's Office did not fully implement corrective action number nine, which states: "To ensure that there are EEO professionals of both sexes available to investigate discrimination complaints, a male and a female EEO Counselor/Investigator should be authorized to receive and investigate discrimination complaints" in that the male EEO Counselor began attending EEO professionals training, but recently resigned his position from the PA's office; and

Whereas, the Public Advocate's Office did not fully implement corrective action number eleven, which states: "All EEO professionals should be trained in EEO laws" in that the male EEO Counselor resigned before completing the EEO professionals training; and

Whereas, all of the aforementioned recommended corrective actions are required by, or are consistent with, the City's Equal Employment Opportunity Policy. Now Therefore,

Be It Resolved,

that the Public Advocate's Office did not fully implement and/or submit documentation reflecting the implementation of required action numbers nine and eleven to ensure compliance with equal employment opportunity pursuant to the requirements of Chapters 35 and 36 of the New York City Charter; and

Be It Further Resolved,

that the Commission authorizes the Vice-Chair to forward a letter to the Public Advocate Betsy Gotbaum formally informing her that the PA has **partially complied** with the requirements of Chapters 35 and 36 of the New York City Charter because her office has not implemented all of the recommended corrective actions pursuant to the Commission's audit of compliance by the PA's with the City's Equal Employment Opportunity Policy; and

Be It Finally Resolved,

that pursuant to Section 831(d)(5) of the New York City Charter the Equal Employment Practices Commission will initiate another audit of PA prior to the conclusion of the maximum timeframe by the New York City Charter.

Approved unanimously on December 13, 2004.

Chereé A. Buggs, Esq.
Commissioner

Veronica Villanueva, Esq.
Commissioner


Manuel A. Méndez
Vice-Chair



MEMORANDUM

TO: All Staff

FROM: Betsy Gotbaum *BG*

DATE: May 28, 2003

RE: Office of the Public Advocate's
Equal Employment Opportunity Policy

The Office of the Public Advocate (PA) is an Equal Employment Opportunity Employer. As Public Advocate, I am very committed to advocating fair employment practices for all New York City residents and, more particularly, employees of my own office. Given this, let me take this opportunity to announce the Office of the Public Advocate's Equal Employment Opportunity (EEO) Policy.

If any person feels that he or she has observed or been subjected to discriminatory behavior within the Public Advocate's Office please contact the Equal Employment Opportunity Officer. The EEO Officer is Elba Feliciano, who may be contacted at (212) 669-2179. The EEO Officer has the authority to recommend to the Public Advocate that appropriate action be taken against any person who has engaged in discriminatory behavior.

Federal, State and/or local laws prohibit employment discrimination based on actual or perceived:

- * Age
- * Alienage
- * Citizenship Status
- * Color
- * Creed
- * Disability
- * Genetic Predisposition or Carrier Status
- * Marital Status
- * National Origin
- * Prior Record of Arrest or Conviction
- * Race
- * Religion
- * Retaliation
- * Sex (Gender)
- * Sexual Orientation
- * Status of Victim of Domestic Violence

Harassment based on the previous basis is also prohibited.



These laws prohibit discrimination that affects:

- | | |
|-----------------------|--------------------------|
| * Hiring | * Training |
| * Assignments | * Transfers |
| * Working Conditions | * Discipline |
| * Salary and benefits | * Termination |
| * Evaluations | * Any other terms and |
| * Promotions | conditions of employment |

Everyone who is working within the PA's Office or who is seeking employment within the PA's Office is protected by federal, state and local employment laws. This policy therefore applies to executives, managers, supervisors, employees, applicants and individuals who may not actually be employees of the PA's Office. This policy also applies to individuals who experience discrimination because of their marriage to, domestic partnership with or association with persons who belong to a group that is protected under the law. This policy may also extend to conduct which occurs at any location that could be reasonably regarded as an extension of the workplace, such as any field location, off-site event or business-related social function, or facility where the business of the PA's office is being conducted and discussed.

The following sections are provided to enable individuals to understand the unique definitions, issues, rights and responsibilities under the law pertaining to sexual harassment, disability, and religion.¹

Sexual Harassment:

Sexual harassment is a form of employment discrimination based on gender which is prohibited by law. The federal government has created guidelines which state that "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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 work environment."

Sexual harassment may involve individuals of the same or different gender. A broad range of behavior can be considered sexual harassment, including sexually suggestive remarks, pictures, gesturing, verbal abuse or harassment of a sexual nature,

¹ Separate policies addressing sexual harassment, and disability and religious discrimination are recommended by the federal Equal Employment Opportunity Commission (EEOC) because of the unique issues which pertain to these areas, but not to other bases of employment discrimination. For example, in order to exercise their rights under federal, state and local law, employees and applicants need to know that the law requires employers to make reasonable accommodations for religion and for persons with disabilities. Similarly, having access to the legal definition of sexual harassment enables an individual to determine whether certain conduct s/he may be experiencing is proscribed.

subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching. This policy prohibits not only harassment of a sexual nature – that is, involving sexual activity or language – but also harassment based on gender or any other protected characteristic that involves vulgar language, abusive acts or language, hostility, physical aggression, intimidation, or unequal treatment.

Disabilities:

Discrimination against a person based on that person's actual or perceived disability, record of disability, or relationship with a person with a disability will not be tolerated. A disability is: 1) a physical, medical, mental or psychological impairment; 2) a history or record of such an impairment; or 3) being regarded as having such an impairment. In addition the PA's Office will take appropriate action to make reasonable accommodations to qualified employees and applicants with disabilities. Reasonable accommodations may include equipment, changes in workplace policies and practices, and other forms of assistance that allow people with disabilities to apply for a position, to perform their jobs, or to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities. City agencies are required to provide reasonable accommodations unless providing such accommodations creates an undue hardship. Undue hardship is when an accommodation is excessively difficult, costly, extensive, substantial, or disruptive, or would change the nature or operation of an agency's business.

Whether an accommodation is reasonable will depend upon the circumstances of each request. Some examples of accommodations that may be reasonable include: making facilities physically accessible to and usable by persons with disabilities; job restructuring; modifying work schedules; providing or modifying equipment or devices; providing qualified readers, interpreters, auxiliary aides and/or other support services; and providing leave and/or arranging for transfer or reassignment to a vacant position.

Religion:

Discrimination based on creed or religious beliefs, observances or practices is prohibited. In addition, depending on the circumstances, individuals may be entitled to a reasonable accommodation because of religion. A reasonable accommodation for religion is a change in a workplace rule or practice that allows an individual to respect their religious beliefs. Whether an accommodation is reasonable or creates an undue hardship depends upon the circumstances of each situation. The PA's Office may provide accommodations for religion such as: flexible arrival and departure times; leave; time and/or place to pray; accommodations relating to appearance and dress; and modifying workplace practices, policies and/or procedures. The PA's Office is not required to provide accommodations that individuals have not requested, or that create an undue hardship because the requested accommodation is too costly or difficult to provide, or that would interfere with job performance.

To the extent possible, all complaints will be handled in confidence. No employee may retaliate against or harass any person for requesting an accommodation, or for filing a complaint, opposing discrimination in the workplace, or cooperating in the investigation of a complaint. Such retaliation or harassment is unlawful and will be cause for disciplinary action.

All employees are directed to comply with both the letter and the spirit of this policy. All personnel should work to maintain an atmosphere of appreciation of the diversity reflected in our staff, and to promote understanding among our co-workers. Managers and supervisors are directed to make all employment decisions in accordance with the Public Advocate's EEO Policy, and to ensure compliance with the policy in their areas of responsibility.