

EQUAL EMPLOYMENT PRACTICES COMMISSION CITY OF NEW YORK

RESOLUTION #08/28-860: Preliminary Determination Pursuant to the Audit of the Department of Records and Information Services (DORIS) Equal Employment Opportunity Program from January 1, 2005 through December 31, 2006.

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 Department of Records and Information Services' 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 Department of Records and Information Services compliance with the City's Equal Employment Opportunity Policy (EEOP), the Equal Employment Practices Commission hereby affirms and adopts the following preliminary findings:

1. The DORIS EEO officer stated that the agency's head EEO policy statement was distributed to employees in 2005; however, she could not locate a copy of the EEO policy statement.
2. The DORIS has not formally appointed a disabilities rights coordinator to handle reasonable accommodation requests.
3. The DORIS could not locate its EEO policy statement in an audiotape format for persons with disabilities.
4. Both of the internal discrimination complaint files that the DORIS provided to the EEPC were not labeled to indicate the file or complaint number.
5. Both of the internal discrimination complaint files were missing a written notice of discrimination to the respondent.
6. Both of the internal discrimination complaint files do not contain a confidential written report prepared by the EEO professional.

7. The DORIS agency head did not sign each confidential written report to indicate that it had been reviewed and whether the recommendation, if any, was approved and adopted. (Sect. VB, EEOP and DCPIG, Sect. 12b).
8. Both of the internal discrimination complaint files do not include word processed notes of the discrimination investigation interviews.
9. The DORIS CEEDS data indicated the underutilization of African Americans, Hispanics, and females.
10. The DORIS did not conduct adverse impact studies to assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular, racial, ethnic, disability, or gender group.
11. The EEO officer stated that a memorandum informing employees of the name, location and telephone number of the career counselor was distributed; however, she could not locate the memo. 24% of respondents to the EEPC survey indicated that they do not know the person who is responsible for career counseling.
12. The EEO officer said that managers and supervisors have been instructed to discuss the department's EEO policies with their subordinates during normal staff meetings; however, these meetings are not documented.
13. The EEO officer reports to and meets with the agency head on EEO matters; however, documentation is not maintained.
14. The EEO officer is the agency's director of human resources. The EEPC believes that it is an inherent conflict of interest for individuals involved in the development of selection and termination policies to review them for bias, as well as, to investigate and supervise the investigation of discrimination complaints.

Be It Finally Resolved,

that the Commission authorizes the Chair, Ernest Hart, Esq., to forward a letter to the Department of Records and Information Services' Commissioner, Brian Andersson, 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 the Department of Records and Information Services will take to bring it into compliance with the New York City Equal Employment Opportunity Policy

Approved unanimously on December 18, 2008.

Angela Cabrera
Commissioner

Manuel A. Méndez
Vice-Chair



Ernest F. Hart, Esq.
Chair

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

RESOLUTION #11/01-860C: Determination of implementation by the Department of Records and Information Services of the recommended corrective actions made by the Equal Employment Practices Commission pursuant to its audit of the Department of Records and Information Services' Charter-mandated Equal Employment Opportunity Program from January 1, 2005 to December 31, 2006.

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

Whereas, pursuant to Chapter 35, Section 814(a) (12) of the New York City Charter, the City established the Citywide Equal Employment Opportunity Policy, a set of uniform standards and procedures designed to ensure 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, pursuant to its audit of the Department of Records and Information Services (DORIS), the Equal Employment Practices Commission (EEPC) issued a preliminary determination letter, dated December 18, 2008, setting forth its findings and recommended corrective actions; and

Whereas, the DORIS submitted its response to EEPC's preliminary determination letter, on February 18, 2009; and

Whereas, the EEPC submitted its Final Determination letter on May 05, 2009; and

Whereas, in accordance with Chapter 36, Section 832 (c) of the City Charter, the EEPC was required to monitor the DORIS for a period not to exceed six months, from August 1, 2009 through January 31, 2010, to determine whether it implemented the aforementioned recommended corrective actions; and

Whereas, the Department of Records and Information Services submitted a request for an extension of the audit compliance monitoring period on July 1, 2010 in order to complete an adverse impact study; and

Whereas, the DORIS completed and provided a copy of its adverse impact study in December 2010 and supplemental documentation in January 2011; and

Whereas, the Department of Records and Information Services submitted its Final Compliance Report on January 19, 2011; 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 the EEPC staff, affirming that the aforementioned recommendations have been implemented to the Commission's satisfaction. Now Therefore,

Be It Resolved,

that the Department of Records and Information Services has implemented the recommended corrective actions deemed necessary to ensure compliance with equal employment opportunity pursuant to the requirements of Chapters 35 and 36 of the City Charter.

Be It Finally Resolved,

that the Commission authorizes the Chair, Cesar A. Perez, Esq., to forward a letter to the Commissioner of the Department of Records and Information Services, Eileen M. Flannelly, formally informing her that the DORIS has implemented the recommended corrective actions to the Commission's satisfaction.

Approved unanimously on March 3, 2011.

Angela Cabrera
Commissioner

Elaine S. Reiss, Esq.
Commissioner


Cesar A. Perez, Esq.
Chair



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Eileen M. Flannelly, Commissioner
eflannelly@records.nyc.gov

MEMORANDUM

To: All Staff

From: Eileen M. Flannelly, Commissioner

Date: October 12, 2010

Re: Equal Employment Practices Commission (EEPC) Audit Findings

The Department of Records and Information Services is committed to using fair employment practices for all employees and job applicants. The Equal Employment Practices Commission (EEPC) has recently audited our agency to ensure that we comply with EEO Policies. To better improve the EEO program in our agency, the EEPC gave us a list of recommended actions, many of which we have already implemented or are currently working on. Below are the recommended actions as prescribed by the EEPC.

1. The agency should re-distribute the Commissioner's EEO policy statement to all employees reiterating her commitment to EEO; advising employees of the names, locations and phone numbers of the EEO professionals.
2. The Commissioner should formally appoint a disability rights coordinator.
3. The agency's EEO Policy statement should be available in alternate formats to accommodate persons with disabilities.
4. The EEO officer should maintain EEO-related files in a clearly marked and secure area so that files can be located and reviewed by the EEO officer's successor(s).
5. A written "notice of discrimination" complaint should be sent notifying the respondent of the complaint filed.

6. At the conclusion of a discrimination complaint investigation, the EEO professional should prepare a confidential written report in accordance with the Discrimination Complaint Procedure Implementation Guidelines.
7. The Commissioner should sign each confidential report to indicate that it has been reviewed, and whether the recommendation, if any, is approved and adopted. Such sign off may be in written or electronic form.
8. All relevant complaint files should include word-processed notes of the discrimination investigation interviews.
9. Since the Department of Records workforce shows underutilization in certain protected groups, it should further expand its recruitment efforts to address underutilization by acquiring "Making the Most of New York City's Recruitment Resources," 2004, http://extranet.dcas.nycnet/eoo/pdf/apomasterclass_recruitment.pdf, a list of recruitment sources compiled by DCAS. This publication provides agencies with recruitment resources to address the underutilization of protected groups.
10. Since the EEOP requires that city agencies assess the manner in which candidates are selected for employment to determine whether there is any adverse impact upon any particular racial, ethnic, disability, or gender group, the Department of Records should conduct an adverse impact study.
11. The agency should re-distribute information to all employees about the identity, location, and telephone number of the person appointed as the career counselor.
12. It is the position of DCAS ("Model Agency EEO Commitment Memo," http://extranet.dcas.nycnet/eoo/pdf/model_memo.pdf) and the EEPC that at least twice a year during normal staff meetings, managers and supervisors should emphasize their commitment to the agency's EEO policies and affirm the right of each employee to file a discrimination complaint with the EEO office. These meetings should be documented.
13. Appropriate documentation of meetings between the EEO officer and the Commissioner discussing EEO operational decisions should be maintained.
14. The Commissioner should appoint an EEO Officer who is not involved in setting or implementing human resources policies.
15. The Commissioner should disseminate an agency-wide memorandum informing staff about the changes that are being implemented in the Department of Records' EEO program pursuant to the audit and reemphasizing the Commissioner's commitment to the agency's EEO program.