

Testimony of Dana Sussman
Deputy Commissioner for Policy and Intergovernmental Affairs
New York City Commission on Human Rights
Before the Committee on Aging and the Committee on Civil and Human Rights
September 17, 2018

Good afternoon Chair Chin and Chair Eugene, and members of the Committees on Aging and Civil and Human Rights. I am Dana Sussman, Deputy Commissioner for Policy and Intergovernmental Affairs at the New York City Commission on Human Rights and I am pleased to be here today with my colleague from the Department for the Aging, Deputy Commissioner Caryn Resnick, to discuss the work of the Commission in combatting age discrimination in the workplace.

Because the Commission has not had the opportunity to appear before the Committee on Aging previously, I'll briefly describe the work of the agency. By statute, the Commission has two main functions. The first is as a civil law enforcement agency, enforcing the City's anti-discrimination law, called the City Human Rights Law, one of the most comprehensive anti-discrimination laws in the country. The Commission's Law Enforcement Bureau investigates complaints of discrimination from the public, initiates its own investigations on behalf of the City, and utilizes its in-house testing program to help identify entities breaking the law. The law includes 24 categories of protection, most of which protect against discrimination and harassment in practically all areas of City living – employment, housing, public accommodations, on the streets, in transit, and other spaces. Allegations of discrimination come to the Commission's Law Enforcement Bureau (LEB) for investigation in several ways. Members of the public may file a complaint with the LEB about their own experience. A lawyer may file a complaint on a person's behalf. Service providers, community organizations, members of faith communities, elected officials, or any other individual may bring specific incidents or potential patterns of discrimination to LEB's attention, and LEB can initiate its own investigation. The Commission can obtain money damages for the complainant and require that the wrongdoer change policy, undergo training, complete community service, among other forms of affirmative relief, and pay civil penalties to the City of New York.

The second main function of the Commission is to perform community outreach and provide education on the City Human Rights Law and human rights-related issues, which is why the Commission also has a Community Relations Bureau comprised of Community Service Centers in each of the City's five boroughs. The Community Relations Bureau provides free workshops on individuals' rights and businesses, employers' and housing providers' obligations under the City Human Rights Law, creates engaging programming on human rights and civil rights related issues, from youth-centered conversations on LGBTQ rights to forums on disability access, and builds spaces for communities to engage in dialogue and foster connection, such as, for example, this year's Immigrant Justice Interfaith Seder and this month's networking event focused on building coalition within the African Immigrant, African American, Afro-Caribbean, and Afro-Latinx communities and other self-identified Black Communities.

The Office of the Chairperson focuses on policy, legislation, rulemaking, legal enforcement guidance, and serves as the adjudicatory body for the Commission, hearing appeals from closed Law Enforcement Bureau matters and issuing final Decisions and Orders on cases that have been litigated through the OATH process. In addition, the Office of the Chairperson oversees major Commission projects, including a recent report on Xenophobia, Islamophobia, and Anti-Semitism experienced by Muslim, Arab, South Asian, Jewish, and Sikh New Yorkers up to following the 2016 Presidential Election released this year based on a survey the Commission conducted of over 3,100 New Yorkers. And a few weeks after the #metoo movement was reignited last fall, the Commission convened a public hearing on sexual harassment in the workplace, which resulted in a report released earlier this year, coinciding with the passage and implementation of a legislative package strengthening protections against gender-based harassment in the workplace.

The City Human Rights Law protects against discrimination based on age in employment, housing, and public accommodations. Unlike the federal Age Discrimination in Employment Act, there is no threshold age one must be to be protected under the law. Over the past two years, the Commission has filed 112 complaints on behalf of individuals alleging age discrimination. The vast majority of those cases are in the employment context. And since 2015, the Commission has filed nearly 500 cases on behalf of New Yorkers 55 years and older, alleging discrimination across many protected categories including disability, religion, race, caregiver status, and others.

Age discrimination in the workplace is insidious and can manifest in both implicit bias and overt conduct. Several examples from cases resolved recently at the Commission demonstrate the work the agency is doing to combat age discrimination. In one case, an employee stated that he had been subjected to repeated discriminatory comments related to his age by his supervisor, and reported the comments internally but no action was taken. The Commission's Law Enforcement Bureau investigated and negotiated a resolution resulting in a conciliation agreement between employer, the employee, the Commission and the supervisors responsible. The agreement required the employer to pay \$25,000 in emotional distress damages and provide anti-discrimination training to supervisors and managers in the employee's unit, as well as re-training to certain managers on reporting and remediating complaints of discrimination. In addition, the supervisor involved in the case, who is no longer employed by the employer, was required to undergo 20 hours of community service with seniors.

In another matter, an older female employee reported that she was labeled "not a team player" for engaging in behavior that was not similarly characterized when displayed by younger, male colleagues. And as a result she lost her job. After an investigation, the Law Enforcement Bureau issued a determination of probable cause. The Commission, the Complainant and the Respondent ultimately entered into a conciliation agreement requiring the Respondent to pay the Complainant \$27,500 in damages. The agreement also involves monitoring of the respondent involved in the case: the employer is required to provide information to the Commission if any other discrimination-related complaint is filed against the individual respondent for a period of

three years. In addition, the Respondents' Human Resources staff will be trained in anti-discrimination law.

The Commission's Community Relations Bureau regularly partners with community-based organizations like the Senior Umbrella Network, SAGE, the Queensboro Council for Social Welfare, and others to provide know-your-rights information on age discrimination and protections under the City Human Rights Law. The Commission has presented know-your-rights information sessions at dozens of senior centers over the past several years, bringing awareness of protections against age discrimination to over one thousand seniors across the five boroughs. Our relationships with the Queensboro Council for Social Welfare and SAGE are longstanding; we meet regularly at those organizations to ensure that our team is able to address specific issues related not only to age discrimination, but other forms of discrimination including LGBTQ discrimination, disability discrimination, and discrimination in housing. Most recently, on May 30, 2018, the Commission, along with our colleagues at the Department for the Aging, presented at the Ageism Symposium, sponsored by Brooklyn Public Library's Older Adult Services Department. On September 20, Commission staff will speak on the City Human Rights Law at an Aging Symposium sponsored by the Senior Umbrella Network of Brooklyn and will highlight protections against age-based discrimination as well as discrimination in housing, accessibility access, and other areas that intersect with age-based discrimination. If any Council Member is interested in having our team work with your staff to develop an outreach event, on-site legal clinic, or other programming for your constituents, we would be more than happy to collaborate with you.

Thank you for convening this hearing today. I look forward to your questions.