

## ADMINISTRATION FOR CHILDREN'S SERVICES

- Letter of Preliminary Determination July 16, 2009
- Agency Response August 26, 2009
- Letter of Final Determination September 30, 2009
- Agency Response November 9, 2009



## EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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July 16, 2009

John B. Mattingly  
Commissioner  
Administration for Children's Services  
150 William Street  
New York, NY 10038

Re: Resolution #09/20-067/ Preliminary Determination Pursuant to the Audit of the Administration for Children's Services (ACS) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through December 31, 2006.

Dear Commissioner Mattingly:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered 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. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

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 by city agencies.

The Charter defines city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury..."

This letter contains the preliminary determinations of the EEPC pursuant to its audit of compliance by the Administration for Children's Services (ACS) during the twenty-four month period commencing January 1, 2005 and ending December 31, 2006. Requests for corrective

actions and/or recommendations are included where the EEPC has determined that the ACS has failed to comply in whole or in part with the City's EEO Policy.

The purpose of this audit is to evaluate the agency's compliance with the EEOP, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

### **Scope and Methodology**

Audit methodology included an analysis of the ACS' Agency Specific Plans, quarterly EEO reports, and responses to an EEPC Document and Information Request Form. The EEPC staff also analyzed Citywide Equal Employment Database System (CEEDS) data by which the ACS determines underutilizations and concentrations of targeted groups within the workforce. These designations represent imbalances between the number of employees in a particular job category and the number that would reasonably be expected when compared to their availability in the relevant labor market. Where CEEDS data revealed underutilizations within the ACS workforce, the auditors determined whether the agency had undertaken reasonable measures to correct those underutilizations. (Appendix 5)

The EEPC auditors also conducted in-depth, on-site interviews with the ACS' "acting" EEO officer/ investigator, former EEO officer and career counselor.

A survey was distributed to 2,500 people employed by the ACS during the audit period. (This number excludes 200 surveys that were returned as undeliverable.) One hundred ninety-three people (8.4%) responded. The survey data are attached. (Appendix 1)

### **Description of the Agency**

The Administration for Children's Services was created on January 11, 1996 from the child welfare divisions of the Human Resources Administration/Department of Social Services, to make the mission of providing for the safety, care and nurturing of New York City's children the sole objective of one agency. The ACS fulfills this mandate by: 1) acting as a child protective service, receiving and investigating reports of child abuse and neglect; 2) assisting families at risk by addressing the causes of abuse and neglect; 3) providing children and families with preventive services to avert the impairment or disruption of families; 4) placing a child in temporary foster care or permanent adoption when preventive services cannot redress causes of child maltreatment; 5) assisting in bringing to justice any person who criminally injures a child; 6) providing opportunities for children's growth and development through child care and Head Start services; 7) providing services to ensure that legally responsible parents provide child support; and 8) issuing of child performer permits.

### **Personnel Activity During the Audit Period**

During the audit period, 1,777 people were hired: 320 Caucasians, 1,017 African-Americans, 316 Hispanics, 119 Asians, 4 Native Americans, and 1 "Unknown." Of the individuals hired, 1,315 were female. One thousand, seven hundred, and thirty-four individuals were promoted during the audit period: 245 Caucasians, 1,170 African-Americans, 258

Hispanics, 56 Asians, and 5 "Unknowns." Of the employees promoted, 1,409 were female. (Appendix 4)

The ACS reports that 1,374 full-time employees were involuntarily separated during the audit period: 239 Caucasians, 872 African-Americans, 208 Hispanics, 48 Asians, 6 Native American, and 1 "Unknown." Twenty-nine of those individuals were female.

Between January 1, 2005 and December 31, 2006, the total number of ACS employees increased by 1%, from 6,365 to 6,449. There was a small percentage decrease for African-Americans (69% to 68%). There were no changes for Hispanics, Asians and females. (Appendices 2 and 3)

### **Discrimination Complaint Activity During the Audit Period**

During the period in review, 49 internal discrimination complaints were filed: 24 were based on sexual harassment, 6 were based on gender, 4 were based on religion, 2 were based on national origin, and 1 was based on race. The other 12 internal discrimination complaints were based on multiple categories. The former EEO officer completed and issued reports for 35 of these complaints, which received 28 probable cause determinations and 7 no probable cause determinations. Fourteen complaints were closed administratively at the end of the audit period. Twenty-eight external complaints were filed: 3 were based on disability, 3 were based on national origin, 2 were based on age, 2 were based on retaliation, 2 were based on gender, 2 were based on race, 1 was based on discrimination, and 1 was based on creed. The other 12 external discrimination complaints were all based on multiple categories. Seven of the complaints were closed and 1 withdrawn; the 2 remaining complaints, filed with multiple agencies (Equal Employment Opportunity Commission, State Division on Human Rights, and/or City Commission on Human Rights), were pending at the end of the audit period.

### **PRELIMINARY DETERMINATION**

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

#### **Plan Dissemination – Internally**

The ACS is in compliance with the following requirements:

1. The ACS last distributed (in hardcopy) the Citywide EEO Policy to legal, human resources, and EEO representatives, as well as managers and supervisors on October 5, 2007. It also distributes a packet (which includes the general EEO Policy memorandum and the City's EEO Policy Handbook (*About EEO: What You May Not Know*, with addendum) annually to employees. This packet was last distributed on October 5, 2007. Included in the general EEO Policy memorandum are directions on how to access the Internet to obtain a copy of the Citywide EEO Policy and Handbook. The Policies are distributed at specific orientation sessions, EEO training sessions, as well as at presentations and discussions. The ACS' personnel officer has ensured that all new employees are advised of the City's EEO Policies,

the employees' rights and responsibilities under such policies, and the discrimination complaint procedure. This is done during presentations to new employees at orientation sessions.

2. The ACS has made the EEO Policies available in alternate formats (e.g. Braille, audio cassette/CD and large print) for use by applicants and employees with disabilities. It has requested them from the DCAS in the past.
3. According to the agency's former EEO officer and acting EEO officer/investigator the EEO Policy Statement and the EEO Policy Handbook are posted on the agency Intranet and bulletin boards. The EEO office conducts periodic checks of the bulletin boards to ensure the EEO information is clearly posted and current via telephone since the ACS has 38 offices throughout the city and physical checks of the bulletin boards are difficult.

### **Plan Dissemination – Externally**

The ACS is in compliance with the following requirements:

1. The ten internal job vacancy notices submitted by the ACS to the EEPC [two Administrative Staff Analysts-Level M2, Computer Aide-Level 1, Principal Administrative Associate-Level 1, Computer Systems Manager-Level 1, Child Protective Specialist Supervisor-Level 2, Child Protective Specialist Supervisor-Level 1, Child Welfare Specialist Supervisor-Level 2, Associate Staff Analyst, and Community Coordinator) include the EEO tag line.
2. The newspaper advertisements submitted by the ACS to the EEPC (Assistant Commissioner/Borough Director, Agency Attorney, Level 1 and Level 2 (Family Court Services), Child Protective Specialists, and a general ad for administrative, analytical, and social services opportunities in the Family Court Legal Services, Quality Assurance, Family Permanency Services, Family Support Services and Policy and Planning units] include the EEO tag line.

### **Affirmative Action and Reasonable Accommodation for Persons with Disabilities**

The ACS is in compliance with the following requirements:

1. The ACS' EEO Policy includes a "Reasonable Accommodation Procedure."
2. The ACS has provided several reasonable accommodations for employees with disabilities, such as Lumbar Support Chairs, a Memory Foam Back Rest and Seat Rest, a Zoom Text Magnifier/Screen Reader, a Logitech Mouse Pad, and a Large Print Keyboard. In addition, 16 of the 23 survey respondents who indicated they asked for an accommodation said that the agency accommodated them.
3. The ACS participates in the Section 55-A Program. The DCAS' personnel office informs the EEO officer on a quarterly basis of the number of 55-A Program participants; currently, 10 employees participate in the program.

The ACS is in partial compliance with the following requirement:

1. The ACS has completed its own survey of its facilities and submitted accessibility checklists for all 38 locations. The results indicate that 15 of the 38 facilities have street accessible entrances, ramp access, wheelchair accessible elevators, bells and Braille in the elevators, wide restroom stalls, grab bars in the restrooms, and low sink or bathroom fixtures. The remaining 23 facilities are not ADA compliant. Corrective action is required.

Recommendation: For facilities that are not ADA compliant the ACS should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)

2. The former EEO officer was designated the agency's disability rights coordinator. Currently, no one has been designated as the disability rights coordinator. Corrective action is required.

Recommendation: The ACS should appoint a disability rights coordinator. (Section VB, EEOP)

### **EEO Complaint and Investigation System**

The ACS is in compliance with the following requirements:

1. The acting EEO officer receives and investigates discrimination complaints in conformance with the EEOP's model complaint and investigation procedures and implementation guidelines issued by the DCAS.
2. The acting EEO officer maintains a monthly log of discrimination complaints filed against the agency.
3. The former EEO officer and acting EEO officer/investigator have both completed appropriate EEO training. The acting EEO officer/investigator completed the basic training course for EEO professionals at the Department of Citywide Administrative Services/ Office of Citywide Equal Employment Opportunity (DCAS/OCEEO) and has received training on Combating Racial Stereotyping. Both individuals also completed the Cornell University School of Industrial and Labor Relation's EEO Studies Program.
4. The agency identifies its EEO staff by posting their names, locations and numbers in the EEO Policy memorandum
5. During the audit period, the agency head did not conduct a quarterly review of the EEO complaints. Currently, however, the agency head reviews all EEO investigative reports and takes action as a result of the reviews in substantiated cases.

The ACS is in partial compliance with the following requirement:

During the audit period there was one male and two female EEO professional available and authorized to investigate discrimination complaints. All individuals completed the basic

training course for EEO professionals at the Department of Citywide Administrative Services/ Office of Citywide Equal Employment Opportunity (DCAS/OCEEO). For the last 11 months only a male EEO professional is available to investigate discrimination complaints. Corrective action is required.

Recommendation: The agency should appoint a female who is trained and available to investigate EEO complaints. (Sect. VB, EEOP)

The ACS is not in compliance with the following requirement:

Although the general counsel took responsibility for the investigation of, and response to, external EEO complaints, he intermittently informed the EEO office when external EEO complaints or litigation had been brought against the agency. Corrective action is required.

Recommendation: The general counsel should regularly inform the EEO office when external EEO complaints or litigation is brought against the agency. (Sect. VD(3), EEOP)

The ACS is in compliance with the following requirement:

The ACS submitted 10 internal discrimination complaint files to the EEOC for review. In nine of the 10 internal complaints filed the ACS Data Security Unit (DSU) retrieved non-work related emails (pictures that contained nudity and jokes which were offensive based on gender) from the respondents' work computer. The respondent stored and sent these emails to other employees utilizing ACS' computer. The DSU forwarded these emails to the ACS' Employment Law Unit and they in turn forwarded them to the EEO Office.

The internal complaint files submitted (#22-06, #27-06, #28-06, #29-06, #30-06, #31-06, #32-06, #34-06, #35-06, and #36-06) contain word-processed notes of the interviews, all other notes were handwritten and legible.

The ACS is not in compliance with the following requirements:

1. One of the ten internal complaint files submitted (#36-06) does not contain a discrimination complaint intake form. Corrective action is required.

Recommendation: All discrimination complaint files should include a Discrimination Complaint Form completed by the complainant or the EEO investigator. (DCPIG, sect. 12(b))

2. The recommendation at the conclusion of the confidential written report of all ten internal discrimination complaint files states, "The case should be referred to the Employment Law Unit for appropriate disciplinary action." However, the complaint files submitted does not have clear written indication of corrective action taken. Corrective action is required.

Recommendation: The internal discrimination complaint file should include written indication of corrective action taken as a result of the determination. (DCPIG, sect. 12(b))

## **EEO Training**

The ACS is in compliance with the following requirement:

The EEO investigators conduct EEO training for staff. The acting EEO officer/investigator stated that his qualifications include years of EEO training experience he received at the City Commission on Human Rights. He holds certificates for completing the DCAS' basic training for EEO professionals and the Cornell University School of Industrial and Labor Relation's EEO Studies Program.

The ACS has developed an EEO training curriculum for all new and existing employees on EEO. This curriculum is based on the DCAS standards and includes a component on preventing sexual harassment. According to its 2005 agency specific plan, each new employee attends an orientation which includes, at a minimum, a discussion of the City's EEO Policy, the employee's rights and responsibilities under the Policy, and the discrimination complaint and investigation procedures.

The ACS' annual/fourth quarter reports indicated that the agency trained a total of 1,070 (17%) employees in FY 2005, and a total of 2,419 (38%) employees in FY 2006.

## **Underutilization**

The ACS' CEEDS data indicated underutilization of at least three "protected" classes in 6 of the 23 job groups, and persistent underutilization in 4 job groups. (See Appendix 5 for underutilizations at the beginning and end of the audit period.)

Following is an analysis of personnel activity in these categories.

### EEO Job Groups / Hires and Promotions:

Health Professionals (005): African-Americans were underutilized in this category throughout the audit period. Native Americans were underutilized in this category from the second through fourth quarters of FY 2005 and throughout FY 2006. No employee was hired or promoted into this category.

Clerical Supervisors (012): Hispanics were underutilized in this category throughout the audit period. Twenty-two individuals were hired into this category: 2 Caucasians, 13 African-Americans, 3 Hispanics, and 4 Asians; 16 of those were female. Sixty-six employees were promoted to or within this category: 7 Caucasians, 48 African-Americans, 9 Hispanics, 1 Asian, and 1 Native American; 54 of these were female.

Police (018): Hispanics and Native Americans were underutilized in this category during the second quarter of FY 2005. Females were underutilized in this category during the first and second quarter of FY 2005. Ninety-eight individuals were hired into this category: 18 Caucasians, 50 African-Americans, 29 Hispanics and 1 Native American; 30 of those were female. No employee was promoted to or within this category.

Food Preparation (020): Hispanics were underutilized in this category during the first, second, and third quarters of FY 2005. Native Americans were underutilized in this category throughout the audit period. No employee was hired or promoted into this category.

Building Services (022): Hispanics and females were underutilized in this category throughout the audit period. No employee was hired or promoted into this category.

Transportation (027): Females were underutilized in this category during the first, second and third quarters of FY 2005 and second, third, and fourth quarters of FY 2006. Three individuals were hired into this category: 1 Caucasian, 1 African-American, and 1 Hispanic; No females were hired within this category. One African-American employee was promoted within this category.

### **Addressing Underutilization**

The ACS is in partial compliance with the following requirements:

1. The former EEO officer reviewed the agency's CEEDS quarterly reports to determine if women and/or minorities are underrepresented in particular job groups. However, the agency did not target its subsequent recruiting efforts to address the underutilizations. Corrective action is required.

Recommendation: In keeping with the mandate of the EEOP, the ACS should ensure that job vacancies for which underutilization of women and/or minorities have previously been identified are advertised in female- and minority-oriented publications, and sent to professional and community organizations serving minorities, women, and persons with disabilities. (Sect. IV, EEOP)

2. The ACS placed several advertisements during the audit period. Although it provided a list of newspapers, journals, publications, and websites it used for recruitment purposes, it did not utilize any female-oriented agencies or organizations. Corrective action is required.

Recommendation: Since females were underutilized in several job categories, the ACS should further expand its recruitment efforts by utilizing female-oriented publications, agencies, or organizations. (Sect. IV, EEOP)

### **Selection and Recruitment**

The ACS is in partial compliance with the following requirement:

According to the former EEO officer, the agency indirectly provided structured interview training to hiring personnel prior to 2003. Since that time the agency has not provided training.

Recommendation: The ACS should adhere to its agency specific plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy)

The ACS is not compliance with the following requirements:

1. The ACS has not conducted adverse impact studies. Corrective action is required.  
Recommendation: The ACS should 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. (Section IV, EEOP).
2. During the audit period there were significant underutilizations of Hispanics, Native Americans and/ or females in 5 job categories. Neither the former nor current EEO officer was involved in developing recruitment strategies and selecting recruitment media. Corrective action is required.

Recommendation: The agency head should direct the human resources director to regularly include the EEO officer in developing recruitment strategy and selecting recruitment media. (Section VC, EEOP)

3. The ACS does not utilize a discretionary job applicant form. Corrective action is required.

Recommendation: The ACS should maintain discretionary job applicant forms that include the name, gender, ethnicity of the applicant, reason for selection/rejection, and source of recruitment. (Section IV, EEOP)

### **Promotional Opportunities**

The ACS is in compliance with the following requirements:

The ACS utilizes the citywide managerial performance evaluation form, which includes a rating for EEO.

The ACS is in partial compliance with the following requirements:

Although during the audit period the ACS had a designated person (human resources director) familiar with civil service and provisional jobs to serve as career counselor, that individual has since resigned. The previous career counselor provided career counseling upon request.

The current career counselor was appointed in October 2006 and was available during the last three months of the audit period. She provided approximately 50 employees with counseling; and spent less than 10% of her time on career counseling matter but believed she received adequate resources to perform both her office and career counseling duties. The ACS did not produce documentation that personnel notified staff about the appointment of the career counselor. Corrective action is required.

Recommendation: The ACS should inform all employees in writing of the identity, location, and telephone number/email of the new career counselor. (Sect. IV, EEOP)

## **Supervisory Responsibility in EEO Plan Implementation**

The ACS is in partial compliance with the following requirement:

Managers and supervisors have been directed to conduct meetings with staff, at least twice a year, to reaffirm their commitment to the Citywide EEOP and discuss the right of employees to file discrimination complaints with the EEO office. However, there is no documentation of the meetings. Corrective action is required.

Recommendation: It is the position of the DCAS ("Model Agency EEO Commitment Memo," [http://extranet.dcas.nycnet/eo/pdf/model\\_memo.pdf](http://extranet.dcas.nycnet/eo/pdf/model_memo.pdf)) and the EEPC that the meetings conducted by supervisors/managers to 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 should be documented.

## **EEO Officer Reporting Arrangement**

The ACS is in compliance with the following requirement:

The former EEO officer told the EEPC auditors she reported to the deputy commissioner of community and governmental affairs (a direct report to the agency head) who in turn reported to the agency head on EEO matters. She had regularly scheduled meetings with the deputy commissioner and records were kept of those meetings. The organizational chart submitted to the EEPC shows a reporting relationship between the former EEO officer and the deputy commissioner. The reporting relationship with the acting EEO officer is the same.

## **EEO Officer Responsibilities**

The ACS is in partial compliance with the following requirement:

The ACS' former EEO officer spent 100% of her time on EEO matters. The acting EEO officer also spends 100% of his time on EEO issues. However, he told EEPC auditors that he does not have adequate support staff and resources to meet his EEO obligations. He has a secretary and a clerical temporary worker; no EEO investigators/counselors. Corrective action is required.

Recommendation: The ACS should provide the EEO officer with adequate support staff and resources to meet his or her EEO obligations. (Section VB, EEOP).

## **Reporting Standards**

The ACS is in compliance with the following requirement:

The agency submitted three quarterly reports and one annual report to the EEPC for FY 2005 and FY 2006.

## SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. For facilities that are not ADA compliant the ACS should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)
2. The ACS should appoint a disability rights coordinator. (Section VB, EEOP)
3. The agency should appoint a female who is trained and available to investigate EEO complaints. (Sect. VB, EEOP)
4. The general counsel should regularly inform the EEO office when external EEO complaints or litigation is brought against the agency. (Sect. VD(3), EEOP)
5. All discrimination complaint files should include a Discrimination Complaint Form completed by the complainant or the EEO investigator. (DCPIG, sect. 12(b))
6. The internal discrimination complaint file should include written indication of corrective action taken as a result of the determination. (DCPIG, sect. 12(b))
7. In keeping with the mandate of the EEOP, the ACS should ensure that job vacancies for which underutilization of women and/or minorities have previously been identified are advertised in female-and minority-oriented publications, and sent to professional and community organizations serving minorities, women, and persons with disabilities. (Sect. IV, EEOP)
8. Since females were underutilized in several job categories, the ACS should further expand its recruitment efforts by utilizing female-oriented publications, agencies, or organizations. (Sect. IV, EEOP)
9. The ACS should adhere to its agency specific plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy)
10. The ACS should 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. (Section IV, EEOP).
11. The agency head should direct the human resources director to regularly include the EEO officer in developing recruitment strategy and selecting recruitment media. (Section VC, EEOP)
12. The ACS should maintain discretionary job applicant forms that include the name, gender, ethnicity of the applicant, reason for selection/rejection, and source of recruitment. (Section IV, EEOP)
13. The ACS should inform all employees in writing of the identity, location, and telephone number/email of the new career counselor. (Sect. IV, EEOP)

14. It is the position of the DCAS ("Model Agency EEO Commitment Memo," [http://extranet.dcas.nycnet/eoo/pdf/model\\_memo.pdf](http://extranet.dcas.nycnet/eoo/pdf/model_memo.pdf)) and the EEPC that the meetings conducted by supervisors/managers to 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 should be documented.
15. The ACS should provide the EEO officer with adequate support staff and resources to meet his or her EEO obligations. (Section VB, EEOP).

In addition to the above recommendations, during the compliance process, the Commission requires that the agency head distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO program pursuant to the audit. This memorandum should re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

### **Conclusion**

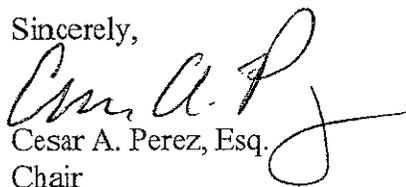
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of ACS' compliance with its Equal Employment Opportunity Policy and EEO standards expressed in the Citywide EEO Policy, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. Please specify those corrective actions in your response. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, as amended in 1999, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend to the Mayor the appropriate corrective actions that you should implement in your agency's EEO Plan.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission's auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,

  
Cesar A. Perez, Esq.  
Chair

## APPENDIX - 1

### Administration of Children's Services EMPLOYEE SURVEY RESULTS

#### A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?  
Yes (78)      No (115)
2. Is your agency's EEO Policy Statement posted on your agency's bulletin boards?  
Yes (137)      No (56)
3. Were you given the EEO Policy Statement?  
Yes (141)      No (22)      Do not remember (30)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?  
Yes (163)      No (30)
5. Do you agree with the principles of equal employment opportunity?  
Yes (179)      No (14)
6. Do you believe your agency practices equal employment opportunity?  
Yes (127)      No (66)
7. Do you know what the City's Equal Employment Opportunity Policy (EEOP) is?  
Yes (151)      No (42)
8. Has your supervisor emphasized his/her commitment to the agency's EEO policies at any staff meeting during the past 8 months?  
Yes (83)      No (68)      Do not remember (42)
9. When you started working at your agency, did you attend an orientation session?  
If No, please skip to question #11.  
Yes (138)      No (34)      Do not remember (22)
10. If hired within the past 12 months, did your orientation session include information on your rights and responsibilities under the EEO Policy?  
Yes (39)      No (16)      Do not remember (18)

#### B. EEO COMPLAINTS

11. Do you know how to file an EEO complaint?  
Yes (135)      No (58)
12. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (99)      No (63)      Undecided (31)

**ACS SURVEY RESULTS CONTINUED**

13. Would you prefer to file an EEO complaint with an office outside your agency?  
Yes (63) No (99) Undecided (31)

14. Did you ever file an EEO complaint with your agency's EEO Office?  
If No, please skip to question #18.  
Yes (24) No (169)

15. What was the basis of the complaint?

Age (5)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (4)
Color (1)	Sexual Harassment (2)
Creed (0)	Sexual Orientation (3)
Disability (4)	Veteran's Status (0)
Gender (incl. gender identity) (2)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (5)
Military Status (0)	
National Origin (0)	

16. Were you satisfied with the manner in which your complaint was managed?  
Yes (3) No (21)

17. Was your manager or supervisor supportive of your right to file a complaint?  
Yes (6) No (11) Not Applicable (5)

**C. EEO TRAINING**

18. Did you receive EEO training? If No, please skip to question #20.  
Yes (113) No (80)

19. Did you find this training helpful?  
Very (36) Somewhat (39)  
Not really (9) Waste of time (5)

**D. JOB PERFORMANCE/ADVANCEMENT**

20. Did you see your agency's job postings on agency bulletin boards for vacant positions prior to the application deadline?  
Yes (110) No (49) Do not remember (35)

21. If you were employed at your agency for over one year, did you receive annual evaluations?  
If No, skip to question #24.  
Yes (106) No (74) Not employed for >1 year (13)

22. Did your evaluation contain recommendations for improving your job performance?  
Yes (60) No (46)

**ACS SURVEY RESULT CONTINUED**

23. Did your evaluation contain recommendations for career advancement with your agency?  
Yes (63) No (43)

24. Do you know the name of the person in your agency who is responsible for providing career counseling?  
Yes (77) No (116)

**E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES**

25. Are your agency's facilities accessible for persons with disabilities?  
Yes (124) No (22) Don't Know (47)

26. Did you ever ask for an accommodation for a physical or mental disability?  
If No, skip to question #28.  
Yes (23) No (170)

27. Did the agency accommodate you?  
Yes (16) No (7)

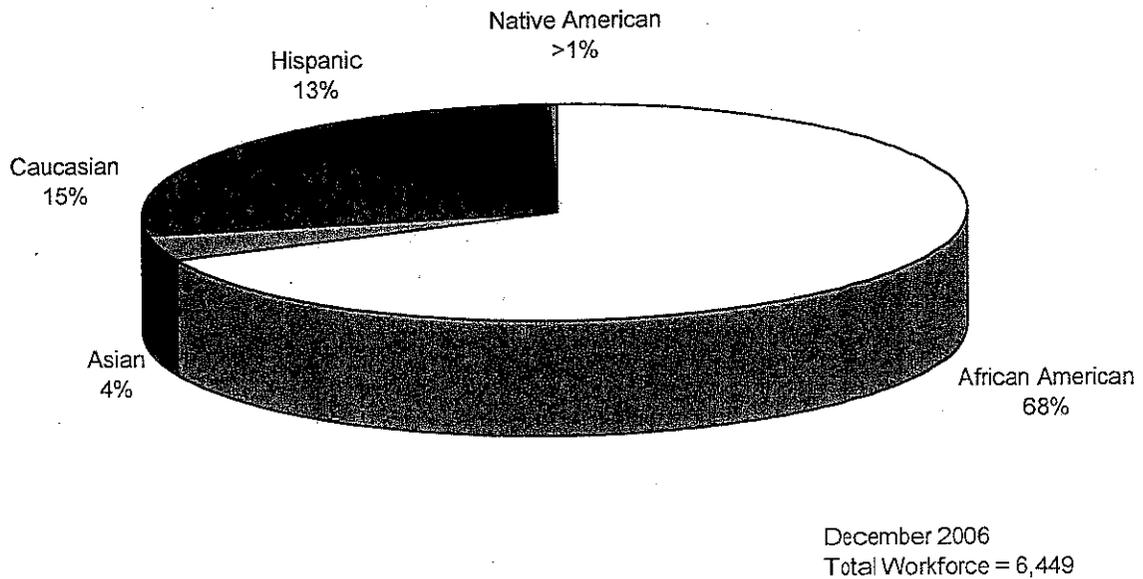
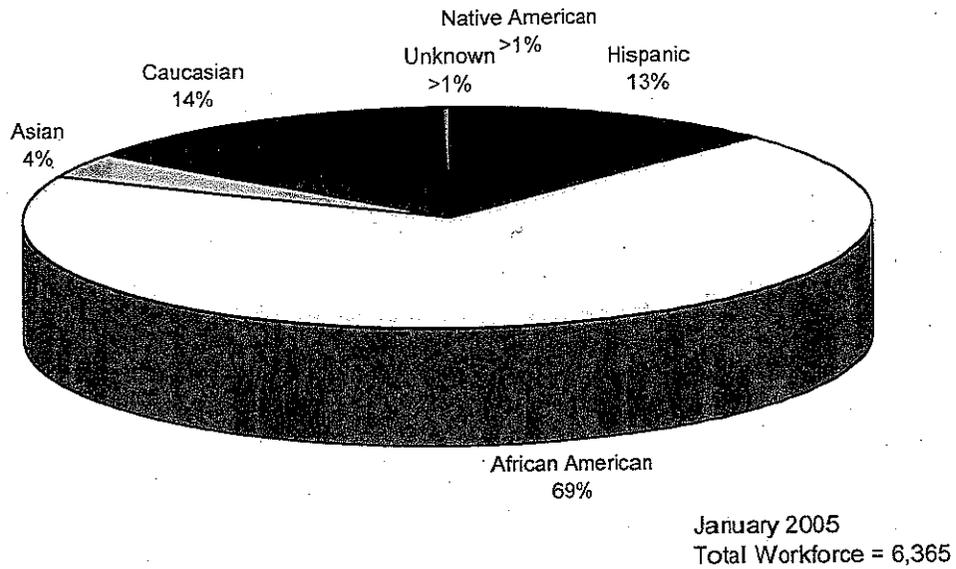
**OPTIONAL**

28. What is your race/ethnicity?  
Asian (5) Native American (0)  
Black (78) White (43)  
Hispanic (27) Other (23)

29. What is your gender?  
Male (79) Female (104)

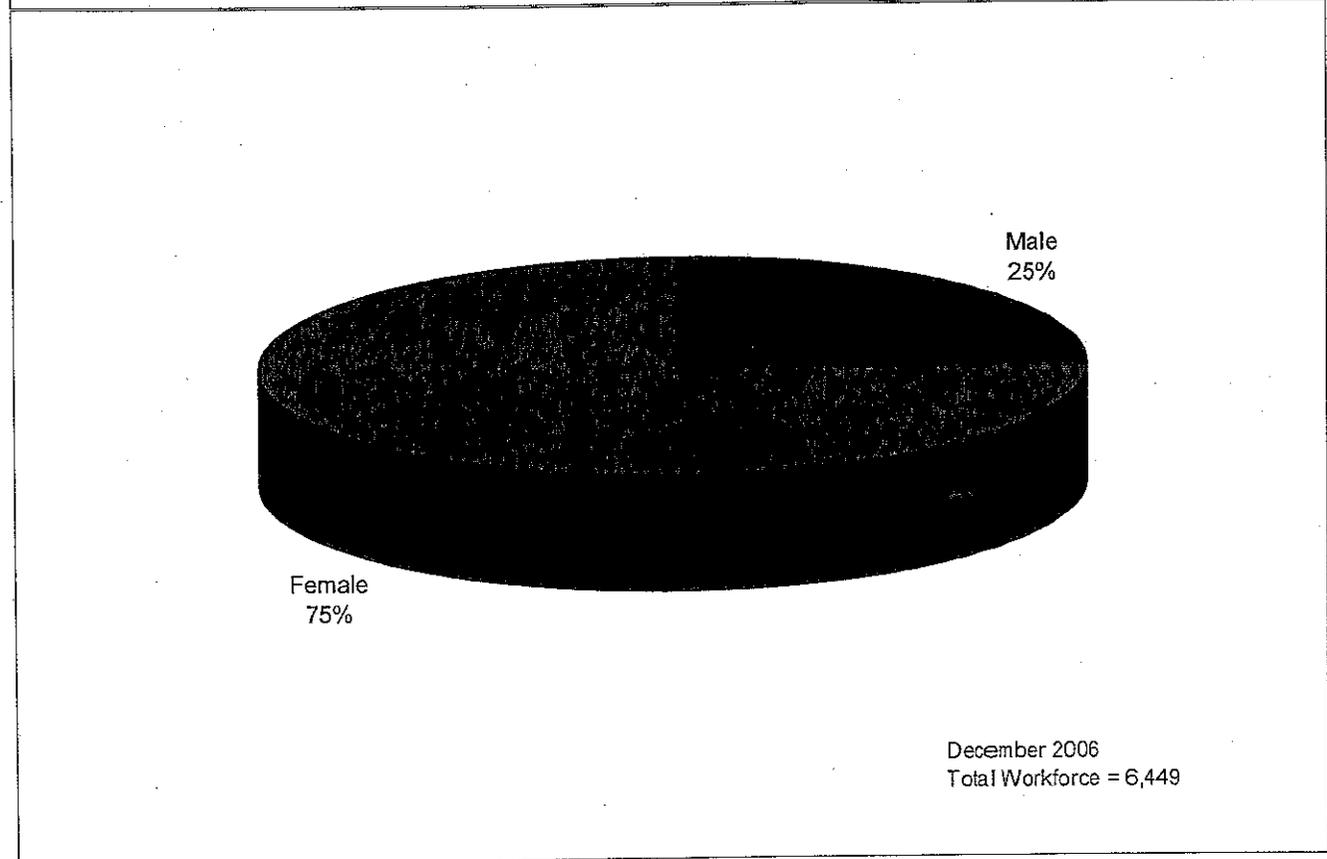
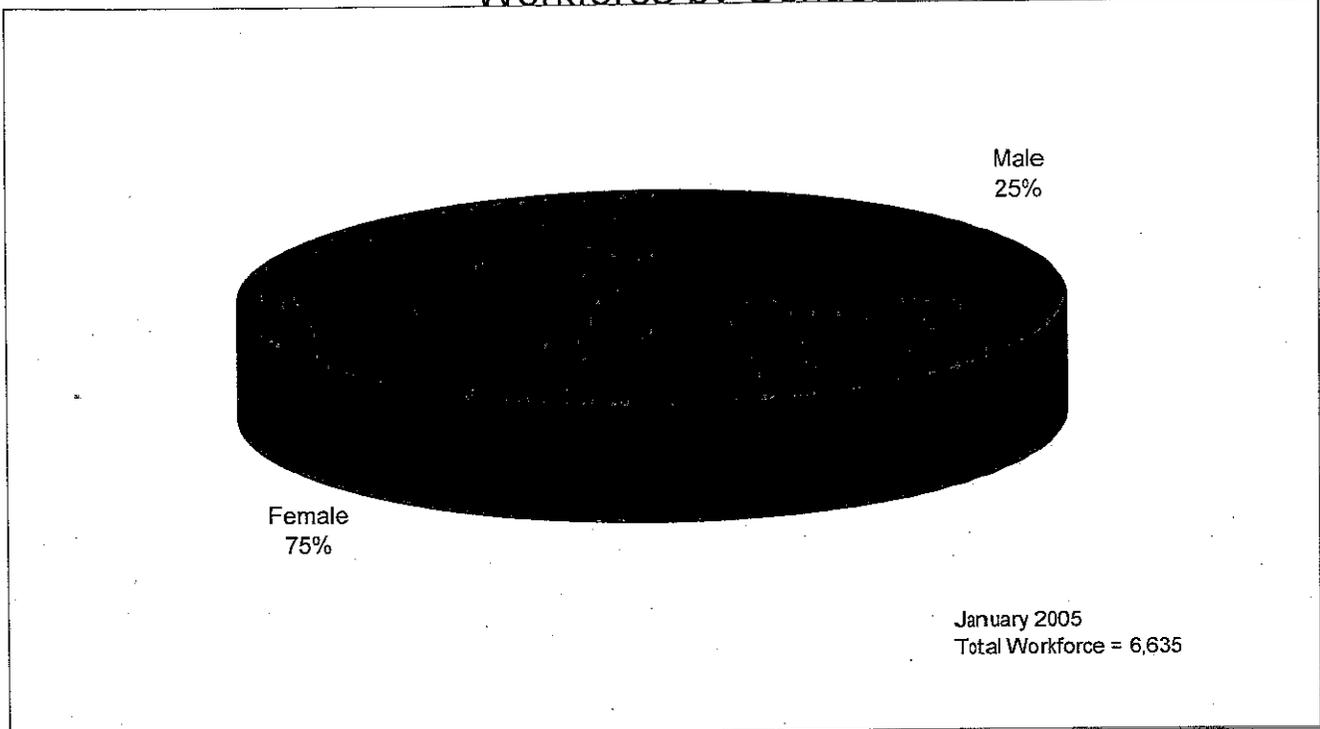
## Appendix - 2

### Administration for Children's Services Workforce by Ethnicity



# Appendix - 3

## Administration for Children's Services Workforce by Gender



## APPENDIX – 4

The following table indicates personnel activity during the audit period, January 1, 2005 through December 31, 2006

### Administration for Children's Services

#### Hires by Gender and Ethnicity

Total Hires: 1,776

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Native American	Total
461	1315	1776	320	1017	316	119	4	1776

#### Promotions by Gender and Ethnicity

Total Promotions: 1,734

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
325	1409	1734	245	1170	258	56	5	1734

Source: Audit data supplied by the ACS

## Appendix - 5

### Administration for Children's Services CEEDS UNDERUTILIZATION CHART January 1, 2005 - December 31, 2006

Quarter:		1Q/2005	2Q/2005	3Q/2005	4Q/2005	1Q/2006	2Q/2006	3Q/2006	4Q/2006
		(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)	(Jul-Sep)	(Oct-Dec)	(Jan-Mar)	(Apr-Jun)
Job Group	Protected Class								
005 Health Prof.	Afr. Am.								
	Asian								
	Hisp.	x	x	x	x	x	x	x	x
	Nat. Am.		x	x	x	x	x	x	x
	Female								
012 Cler. Sup.	Afr. Am.								
	Asian								
	Hisp.	x	x	x	x	x	x	x	x
	Nat. Am.								
	Female								
018 Police	Afr. Am.								
	Asian								
	Hisp.		x						
	Nat. Am.		x						
	Female	x	x						
20 Food Prep.	Afr. Am.								
	Asian								
	Hisp.	x	x	x					
	Nat. Am.	x	x	x	x	x	x	x	x
	Female								
22 Build. Services	Afr. Am.								
	Asian								
	Hisp.	x	x	x	x	x	x	x	x
	Nat. Am.								
	Female	x	x	x	x	x	x	x	x
27 Trans.	Afr. Am.								
	Asian								
	Hisp.								
	Nat. Am.								
	Female	x	x	x			x	x	x

x = Underutilization



John B. Mattingly  
Commissioner

150 William Street  
18<sup>th</sup> Floor  
New York, NY 10038

212-341-0903 tel  
212-341-0916 fax

August 26, 2009

10/83

AUG 27 2009 PM 3:5

Cesar A. Perez, Esq.  
Chair  
Equal Employment Practices Commission  
40 Rector Street – 14<sup>th</sup> floor  
New York, NY 10006

It was a distinct pleasure to meet with your colleagues on Monday, May 4<sup>th</sup> and have the opportunity to reaffirm the Administration for Children's Services commitment to compliance with Equal Employment Opportunity throughout our office as well as adherence to standards set forth in the Citywide EEO policy. Following are responses to items listed in the *Summary of Recommended Actions* portion of your Preliminary Determination letter dated July 16, 2009. Supporting documentation has been provided where necessary.

Item # 1

**Facilities must be ADA compliant.**

The head of facilities have been instructed to physically survey our administrative offices as well as field offices to determine accessibility or lack thereof. These includes street accessible entrances, ramp access, wheelchair accessible elevators, bells and Braille in the elevators, wide restroom stalls, grab bars in the restrooms, and low sink or bathroom fixtures. I will advise DCAS of all facilities that are not ADA compliant and request that DCAS make necessary changes in accordance with city, state, and federal Laws in regards to accessibility for employees and applicants for employment with disabilities.

Items # 2, 3 & 15

**Appoint a Disability Coordinator, a trained female EEO Investigator/Counselor and EEO Office should have adequate staff to meet EEO obligations.**

With respect to the issue of EEO Office staffing, during the audit period 2005-2006 the EEO had an Officer/Director, Disability Coordination and two Investigator/Counselors who also served as trainers. Subsequent, to the audit period, on or around June 2008, the office lost two of its staff persons leaving just one staff member to serve for the agency. At present, the agency has a new EEO

Officer/Director and Disability Coordinator as well as two additional staff members, male and female, who serve in the capacity of investigator, counselor and trainer. The office also plans to implement the use of EEO Counselors throughout our field offices. We anticipate a count of twenty and plan to immediately train these employees that would then serve as initial points of contact for EEO complaints. *See Exhibit 1*

Item # 4

**The General Counsel should regularly inform the EEO Office when external complaints are filed.**

The General Counsel and ACS Office of Employment law routinely advise EEO on the status of external cases. In addition EEO meets with these offices bi-monthly to discuss cases and share information. External cases are also included in quarterly reports to DCAS.

Items # 5 & 6

**All discrimination complaint files should include a discrimination form as well as documentation on corrective action taken.**

ACS EEO will continue to strive for highest standards in investigating and reporting as required by internal as well as Citywide EEO policies.

Items # 7, 8 & 11

**Expand recruitment efforts in order to combat underutilization of females and/or minorities.**

ACS has consistently utilized a recruitment source list provided by DCAS. The office strives to be inclusive and utilizes this guide disseminated by DCAS for these purposes. To this effect, the office welcomes additional input from EEPC with regard to female-oriented agencies or organizations.  
*See Exhibit 2 – Recruitment Sources.*

With respect to issue of underutilization of Hispanics, Native American and/or females, ACS predominantly hires from civil service list as it is required to do by guidelines set forth by DCAS. Historically various groups participate in exam taking for one title and refrain from another. However, in an effort to expand recruitment efforts the EEO and Personnel will combine efforts to ensure that greater outreach will be done in various communities for greater participation in exams. *For example, work with community boards to increase awareness of employment at ACS and spread information on exams to groups in that community.*

Our offices will also work internally with members of ACS's Task Force on Racial and Cultural Competence in an effort to increase awareness. *See Exhibit 3 – Video series*

Items # 9 & 10

**Provide structured interview training to personnel involved in the recruitment and hiring process.**

DCAS provided the agency with structured interview training in 2004 prior to the audit period. In addition, ACS has taken additional steps to strengthen our hiring process with the implementation of structured and panel interviewing. *See Exhibit 4*

In addition, on August 7, 2009, the ACS EEO Officer and Personnel Director attended a structured interview briefing presented by DCAS. Our office has since contacted Michael Solomon, DCAS and is currently working with him to set up an agency specific structured interview training program. This training will be part of mandated EEO training for supervisors/managers responsible for selecting employees and will be conducted jointly.

Item # 12

**ACS should maintain discretionary job applicant forms.**

The Personnel Office has been instructed to use the attached form for discretionary, provisional and exempt positions for which resumes are solicited. In additional information obtained for form completion should be based on observation only. *See Exhibit 5*

Item # 13

**Make name and contact information of career counselor available to all staff in writing.**

ACS has this information on its website under the Administration division. However, ACS will additionally send out an agency wide Special e-Bulletin.

Item # 14

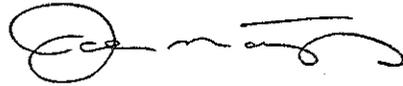
**Managers/Supervisors should document meetings where EEO program is promoted and discussed.**

ACS participated in phase 2 of DCAS CBT EEO training for managers and

supervisors. Over 400 managers have already completed the training. Our office will use the summer to plan agency wide instructor led training to be rolled out in the fall in October. *See Exhibit 6*

ACS thanks EEPC for its time and recommendations made. ACS is committed to being in compliance with regulatory guidelines set forth. The office plans to implement recommended corrective actions immediately. In addition, during the compliance process, I will make staff aware of all changes being implemented in ACS EEO program, pursuant to the audit.

Sincerely,

A handwritten signature in black ink, appearing to read "John B. Mattingly". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke extending to the right.

John B. Mattingly  
Commissioner

Attachments

**E-1**

**Littlejohn, Dawn (ACS)**

**From:** acs.sm.news  
**Sent:** Wednesday, May 06, 2009 12:39 PM  
**To:** acs.dl.opimail  
**Subject:** Special e-Bulletin from Commissioner John Mattingly

**Special e-Bulletin from  
Commissioner John B. Mattingly  
Wednesday, May 6, 2009**

I am pleased to announce the appointment of Dawn Littlejohn as the new Director/Officer of the Equal Employment Opportunity (EEO) office and Disability Rights Coordinator at ACS. Ms. Littlejohn is responsible for ensuring Children's Services' compliance with federal, state, and city employment laws, which prohibit workplace discrimination through the implementation of the agency's EEO complaint and investigation procedures. Reporting to the Commissioner, Ms. Littlejohn's duties include the overall management of EEO operations, including the review, analysis and assigning of cases; and assisting in the development of agency-wide best practices relating to diversity strategies and initiatives in hiring, promotion and staff development.

Ms. Littlejohn has expertise in EEO, training, labor relations, conflict resolution, team building, employee assistance programs and development of administrative policy. She served for the past 20 years with the City Comptroller's Office in the Bureau of Administrative Services as an Associate Director of Personnel and EEO Programs, where she directed and managed all Equal Employment Opportunity programs and functions. Her most recent position in the Comptroller's Office was Director of the Financial Education Program's Office of Commercial Banking.

Ms. Littlejohn received her Bachelor's degree in Psychology from the State University of New York at Geneseo and her Master's degree in Industrial/Organizational Psychology from Columbia University.

Please join me in welcoming Ms. Littlejohn to Children's Services.

**This is an automated e-mail. Please do not reply as e-mails received at this address will not receive a response.**



# EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

40 Rector Street, 14<sup>th</sup> Floor New York, NY 10006

Telephone: (212) 788-8646 Fax: (212) 788-8652

Cesar A. Perez, Esq.

*Chair*

Angela Cabrera

Malini Cadambi Daniel

Elaine S. Reiss, Esq.

Arva A. Rice

*Commissioners*

Abraham May, Jr.

*Executive Director*

Charise Hendricks, PHR

*Deputy Director*

Judith Garcia Quiñonez

*Counsel*

September 30, 2009

John B. Mattingly

*Commissioner*

Administration for Children's Services

150 William Street

New York, NY 10038

Re: Final Determination Pursuant to the Audit of the Administration for Children's Services (ACS) and its Compliance with the City's Equal Employment Opportunity Policy from January 1, 2005 through December 31, 2006.

Dear Commissioner Mattingly:

Thank you for your August 26, 2009 response to our July 16, 2009 Letter of Preliminary Determination pursuant to the audit of the Administration for Children's Services' Equal Employment Opportunity Program from January 1, 2005 through December 31, 2006.

After reviewing your response, our Final Determination is as follows:

## **Agree**

We agree with your responses to the following EEPC recommendations pending documentation that can be attached to your reply or provided during the compliance period:

### Recommendation #1

For facilities that are not ADA compliant the ACS should request that the DCAS perform assessments to ensure that the facilities are in compliance with City, State, and Federal laws in regards to accessibility for employees and applicants for employment with disabilities. (Sect. VC, EEOP)

### Recommendation #2

The ACS should appoint a disability rights coordinator. (Section VB, EEOP)

Recommendation #3

The agency should appoint a female who is trained and available to investigate EEO complaints.  
(Sect.VB, EEOP)

Recommendation #4

The general counsel should regularly inform the EEO office when external EEO complaints or litigation is brought against the agency. (Sect. VD(3), EEOP)

Recommendation #7

In keeping with the mandate of the EEOP, the ACS should ensure that job vacancies for which underutilization of women and/or minorities have previously been identified are advertised in female- and minority-oriented publications, and sent to professional and community organizations serving minorities, women, and persons with disabilities. (Sect. IV, EEOP)

Recommendation #9

The ACS should adhere to its agency specific plan to provide structured interview training to personnel involved in the recruitment and hiring process. (Sect. IV, Citywide EEO Policy)

Recommendation #12

The ACS should maintain discretionary job applicant forms that include the name, gender, ethnicity of the applicant, reason for selection/rejection, and source of recruitment. (Section IV, EEOP)

Recommendation #13

The ACS should inform all employees in writing of the identity, location, and telephone number/email of the new career counselor. (Sect. IV, EEOP)

Recommendation #15

The ACS should provide the EEO officer with adequate support staff and resources to meet his or her EEO obligations. (Section VB, EEOP).

**Requires Clarification**

For the following reasons, hereafter identified as EEPC Rationale, we request clarification of your responses to the following recommendations which can be addressed in your response or during the compliance period:

Recommendation #5

All discrimination complaint files should include a Discrimination Complaint Form completed by the complainant or the EEO investigator. (DCPIG, sect. 12(b))

Your Response

The ACS EEO will continue to strive for highest standards in investigating and reporting as required by internal as well as Citywide EEO policies.

EEPC Rational

Although you have indicated that the ACS will follow the highest standards when investigating and reporting an internal complaint, you did not respond directly to the recommendation. Please elaborate on how you will implement the recommendation.

Recommendation #6

The internal discrimination complaint file should include written indication of corrective action taken as a result of the determination. (DCPIG, sect. 12(b))

Your Response

The ACS EEO will continue to strive for highest standards in investigating and reporting as required by internal as well as Citywide EEO policies.

EEPC Rational

Although you have indicated that the ACS will follow the highest standards when investigating and reporting an internal complaint, you did not respond directly to the recommendation. Please elaborate on how you will implement the recommendation.

Recommendation #8

Since females were underutilized in several job categories, the ACS should further expand its recruitment efforts by utilizing female-oriented publications, agencies, or organizations. (Sect. IV, EEOP)

Your Response

The ACS has consistently utilized a recruitment source list provided by the DCAS. The office strives to be inclusive and utilizes this guide disseminated by the DCAS for these purposes. To this effect, the office welcomes additional input from the EEPC with regard to female-oriented agencies or organizations.

With respect to issue of underutilization of Hispanics, Native American and/or females, the ACS predominantly hires from civil service list as it is required to do by guidelines set forth by the DCAS. Historically various groups participate in exam taking for the one title and refrain from another. However, in an effort to expand recruitment efforts the EEO and Personnel will combine efforts to ensure that greater outreach will be done in various communities for greater participation in exams. *For example, work with community boards to increase awareness of employment at the ACS and spread information on exams to groups in that community.*

Our offices will also work internally with members of the ACS' Task Force on Racial and Cultural Competence in an effort to increase awareness.

EEPC Rationale

You did not specify what efforts you intend to make to expand recruitment for the underutilized groups. Please elaborate on how "[y]our offices" will also work internally with members of the ACS' Task Force on Racial and Cultural Competence in an effort to increase awareness.

**Did not Address the Recommendation**

For the following reason, hereafter identified as EEPC Rationale, we request your responses to the following recommendations:

Recommendation #10

The ACS should 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. (Section IV, EEOP).

Your Response

The DCAS provided the agency with structured interview training in 2004 prior to the audit period. In addition, the ACS has taken additional steps to strengthened our hiring process with the implementation of structured and panel interviewing.

In addition, on August 7, 2009, the ACS EEO Officer and Personnel Director attended a structured interview briefing presented by the DCAS. Our office has since contacted Michael Solomon, the DCAS and is currently working with him to set up an agency specific structured interview training program. This training will be part of mandated EEO training for supervisors/managers responsible for selecting employees and will be conducted jointly.

EEPC Rationale

You did not address the recommendation.

Recommendation #11

The agency head should direct the human resources director to regularly include the EEO officer in developing recruitment strategy and selecting recruitment media. (Section VC, EEOP)

### Your Response

The ACS has consistently utilized a recruitment source list provided by the DCAS. The office strives to be inclusive and utilizes this guide disseminated by the DCAS for these purposes. To this effect, the office welcomes additional input from the EEPC with regard to female-oriented agencies or organizations.

With respect to issue of underutilization of Hispanics, Native American and/or females, the ACS predominantly hires from civil service list as it is required to do by guidelines set forth by the DCAS. Historically various groups participate in exam taking for the one title and refrain from another. However, in an effort to expand recruitment efforts the EEO and Personnel will combine efforts to ensure that greater outreach will be done in various communities for greater participation in exams. *For example, work with community boards to increase awareness of employment at the ACS and spread information on exams to groups in that community.*

Our offices will also work internally with members of the ACS' Task Force on Racial and Cultural Competence in an effort to increase awareness.

### EEPC Rational

You did not address the recommendation.

### Recommendation #14

It is the position of the DCAS ("Model Agency EEO Commitment Memo," [http://extranet.dcas.nycnet/eo/pdf/model\\_memo.pdf](http://extranet.dcas.nycnet/eo/pdf/model_memo.pdf)) and the EEPC that at least twice a year during normal staff meetings, supervisors/managers 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 should be documented.

### Your Response

The ACS participated in phase 2 of the DCAS CBT EEO training for managers and supervisors. Over 400 managers have already completed the training. Our office will use the summer to plan agency wide instructor led training to be rolled out in the fall in October.

### EEPC Rational

You did not address the recommendation.

### **Conclusion**

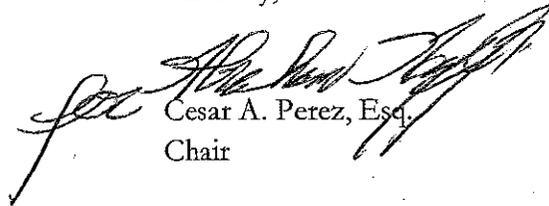
Pursuant to section 832 of the New York City Charter, this Commission will initiate an audit compliance procedure not to exceed six months. However, you may respond to the aforementioned determinations prior to the initiation of audit compliance.

If you choose to issue a written response, please do so within thirty days. If you choose not to issue a written response, we will initiate audit compliance shortly thereafter. EEPC Counsel Judith Quiñonez or her designee will contact your EEO Officer in seven days to ascertain your intentions.

In closing, we want to thank you and your staff for your cooperation during the audit process.

We look forward to a mutually satisfactory compliance process.

Sincerely,

A handwritten signature in black ink, appearing to read "Cesar A. Perez", is written over the typed name and title.

Cesar A. Perez, Esq.  
Chair

C: Dawn Littlejohn, EEO Officer



10136  
NOV 20 2009 11:52

John B. Mattingly  
Commissioner

November 9, 2009

150 William Street  
18<sup>th</sup> Floor  
New York, NY 10038

212-341-0903 tel  
212-341-0916 fax

Cesar A. Perez, Esq.  
Chair  
Equal Employment Practices Commission  
40 Rector Street – 14<sup>th</sup> Floor  
New York, NY 10006

Dear Mr. Perez:

I am in receipt of your September 30, 2009, Final Determination Letter pursuant to the Audit of the Administration for Children's Services (ACS) and its Compliance with the City's Equal Employment Policy from January 1, 2005 through December 31, 2006. Following are responses to items listed as "Requires Clarification or Did Not Address the Recommendation." Supporting documentation is provided where necessary.

#### **Requires Clarification**

##### Recommendation #5

In accordance with the highest standards in investigating and reporting as required by internal as well as Citywide EEO policies; all discrimination complaint files include a Discrimination Form completed by the complainant or the EEO Investigator/Counselor. *See Exhibit 1*

##### Recommendation #6

Internal discrimination complaint files include written indication of corrective action taken as a result of the determination. *See Exhibit 2 & 2A*

##### Recommendation #8

ACS has consistently utilized recruitment sources provided by DCAS; however, due to evidence of underutilization of females in various job categories, ACS will further expand recruitment efforts by utilizing female oriented publications, agencies, and organizations. Specifically, ACS will work with members of its own Task Force on Racial and Cultural Competence to collectively strategize on form list of community groups centered around females and ways to improve community outreach on upcoming tests and vacancies. Further, ACS will identify all possible venues for job fairs that target female applicants for targeted job categories.

## **Did not Address the Recommendation**

### Recommendation #10

ACS OEE0 and Office of Personnel Services will join efforts to assess the manner in which candidates are selected for employment, determining whether there is any adverse impact upon any particular racial, ethnic, disability or gender group. During the interview process, applicant identifying information will be captured on ACS Applicant Log by Personnel Services and given to OEE0 for review and interpretation of the data. *See Exhibit 3*

The Administration for Children's Services will continue to assess the methods by which candidates are selected for employment, promotion or separation, including a review of employee application and interview materials, and procedures for all positions, especially mid and high level discretionary positions. The agency will ensure that all selection criteria are job-related. The agency will ensure that the interviewing and selection decisions of managers and other personnel involved in the recruitment and hiring process meet EEO requirements, and those individuals who make selection, promotion, and separation decisions receive appropriate EEO and/or interviewing training. This agency will consider its own employees for opportunities for promotion and transfer within the agency, and promote employee awareness of such opportunities. The Administration for Children's Services will also facilitate the use of training and development programs to improve skill development and access to career opportunities of all employees. The agency will also make every effort to ensure that all employees have equal opportunities for acknowledgment, such as performance evaluations, employee incentives, and quality of work life and recognition programs as required by the City Charter.

In addition, the agency is in process of drafting a Structured Interview Guide to be utilized by Personnel staff and managers charged with interviewing and selection. Once completed, training will be conducted by OEE0 and the Office of Personnel Services. *See Exhibit 4*

### Recommendation #11

I have directed ACS OEE0 and Office of Personnel Services to work closely together to develop a recruitment strategy and select recruitment media.

I will also continue to monitor, on a quarterly basis, agency practices, policies, programs and/or procedures regarding recruitment, selection, compensation, promotions, training (including structured interviewing), separations and EEO-related compliance with directives for government agencies.

### Recommendation #14

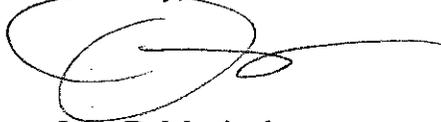
I expect all managers and supervisors in this agency to support a work environment that values fairness, equity and respect. I will continue to hold managers and

supervisors, EEO representatives and human resources professionals accountable for the effective implementation of the City's EEO policies and for ensuring that the agency does not discriminate against or harass employees, applicants for employment, or Work Experience Program (WEP) participants.

ACS participated in phase 2 of DCAS CBT EEO training for managers and supervisors. Currently over 550 managers have already completed the training. During follow up notification for this training, managers and supervisors were made aware of their responsibilities under EEO guidelines. They were informed that they were expected at least twice annually during normal staff meetings to 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 and that these meetings should be documented. *See Exhibit 5*

Again, ACS thanks EEPC for its time and recommendations. ACS is committed to being in compliance with regulatory guidelines set forth and looks forward to working closely with your team.

Sincerely,

A handwritten signature in black ink, appearing to read "John B. Mattingly", with a long horizontal flourish extending to the right.

John B. Mattingly  
Commissioner

Exhibit 1

# COMPLAINT OF DISCRIMINATION

DO NOT WRITE IN THIS SPACE  
FOR USE BY EEO OFFICE

---

VS

---

COMPLAINANT                      RESPONDENT

CASE NO. \_\_\_\_\_

DATE FILED \_\_\_\_\_

Please print the following information:

Name \_\_\_\_\_ Employee Reference # \_\_\_\_\_

Civil Service Title \_\_\_\_\_ Office Title \_\_\_\_\_

Division \_\_\_\_\_ Your Supervisor \_\_\_\_\_

=====

What is the alleged basis of discrimination? (Check all which apply)

Age \_\_\_\_\_ National Origin \_\_\_\_\_

Alienage/Citizenship \_\_\_\_\_ Arrest/Conviction \_\_\_\_\_

Color \_\_\_\_\_ Race \_\_\_\_\_

Creed \_\_\_\_\_ Religion \_\_\_\_\_

Disability \_\_\_\_\_ Sexual Harassment \_\_\_\_\_

Gender \_\_\_\_\_ Sexual Orientation \_\_\_\_\_

Marital Status \_\_\_\_\_

Retaliation for filing/assisting in investigation of complaint \_\_\_\_\_

Report Under OEEEO  
Inquiry # 63-09  
Case # 1-09

**CONFIDENTIAL**

**TO:** John B. Mattingly, Commissioner  
**FROM:** Dawn Littlejohn, ACS Office of EEO, Director  
**DATE:** Friday, August 7, 2009  
**RE:** Allegation that the Respondent hit the Complainant's foot with a door and pushed by her in retaliation for the Complainant's prior discrimination complaint against superiors with whom the Respondent was friendly.

[Redacted]

Complainant Attorney L-1

[Redacted]

Respondent Attorney L-2

Matter investigated by Tom Trottier under the supervision of Dawn Littlejohn [since March 30, 2009].

On February 23, 2009, the Complainant telephoned the Office of EEO and made the allegation mentioned below. On March 10, 2009, the Complainant faxed a written complaint form to OEEEO. The Complainant was then given an appointment for an interview at the Office of EEO.

**ALLEGATION:**

The Complainant alleged that on Monday, February 23, 2009, the Respondent hit the Complainant's foot with a door and pushed by her in retaliation for the Complainant's prior discrimination complaint against superiors with whom the Respondent was friendly.

**COMPLAINANT:**

The Complainant was interviewed in the office on March 12, 2009. The Complainant stated that on Monday, February 23, 2009, she was walking to the door of the office at 5E on the fifth floor at the Manhattan Family Court. This building is located at 60 Lafayette Street. The Complainant stated that before opening this door a person, who does not work for ACS, called to her and she turned to speak to that person.

She then wrote in the EEO *Complaint form*: [Redacted] was exiting 5E and swung the door open with considerable force, hitting me and at the same time physically pushing me out of the way with his body. My boot absorbed most of the force of the door, but I was also pushed by his body and turned

forward. I was looking directly at [REDACTED] as he was facing forward coming out of the door. I said to him, [REDACTED], what is that about? Don't you say excuse me, sorry or anything?' He looked at me very coldly and said 'You better watch out.' This action was in retaliation for an investigation that was launched as a result of complaints I made about discriminatory practices at the Manhattan office. Earlier in the day, the office learned our supervising attorney was being removed and I was blamed by various office personnel."

#### **WITNESSES:**

Two witnesses were interviewed. **The Complainant and the Respondent suggested the same witness, the receptionist at 5E. A second witness was suggested by the Complainant, but this person was not present at the incident.**

The first witness could be considered objective, in that both sides wanted the Office of EEO to interview her. The first witness was the receptionist for 5E and sat by the door facing it. This witness confirmed that the employees were angry at the Complainant for her discrimination complaint and that it led to the demotion of Manhattan Supervising Attorney [REDACTED]. **This witness stated that she remembers that after the Respondent hit the Complainant with the door, he just pushed his way threw the door and it did not look like an accident.**

Although the second witness did not witness the incident, the second witness confirmed that many co-workers found out about the demotion of the Manhattan Supervising Attorney [REDACTED] on the morning of Monday, February 23, 2009 and that employees felt it was due to the Complainant's discrimination complaint. The second witness stated that on one date, prior to the above incident, the Respondent had brushed against her in a non-sexual, but hostile way. The witness never complained to anyone about this. This witness stated that the Respondent is hostile to her.

#### **RESPONDENT:**

The Respondent was interviewed on Thursday, June 4, 2009 and was accompanied by his union attorney. The Respondent stated that he hit the Complainant with a door, but it was an accident. The door is solid with a small window about three feet from the floor; therefore he could not see her. He stated that he had no problem with the Complainant and that when the door hit her, he told her "oh, sorry." The Respondent stated that we should speak with the receptionist who was sitting in the area at the time. This person was interviewed [see above].

The Respondent stated that he felt the demotion of [REDACTED] and the transfers of [REDACTED] and [REDACTED] was abrupt, although he claims he did not know what the reason was for the decision or that it was related to any complaint in particular. The Respondent felt that both [REDACTED] and [REDACTED] were helpful supervisors. The Respondent stated that he received two evaluations: one *Very Good* and the other *Outstanding* and that [REDACTED] wrote the evaluations.

The Respondent was told that he could submit a written rebuttal, but he declined to do so.

#### **FINDINGS:**

**ALLEGATION:**

*The Complainant alleged that on Monday, February 23, 2009, the Respondent hit the Complainant's foot with a door and pushed by her in retaliation for the Complainant's prior discrimination complaint against superiors with whom the Respondent was friendly.*

The investigation revealed that the Respondent hit the Complainant with a door, by accident, but then pushed his way through the door and stated "watch out" in an unfriendly tone. Since the Respondent could not see that there was someone on the other side of the door, nor who it was, it is clear that the door hit the Complainant accidentally. However, once he noticed the Complainant, both the Complainant and the objective witness claim that he pushed past the Complainant.

The Respondent claimed that he had no animosity toward the Complainant, but he admitted that he got along well with [redacted] and [redacted] and felt what happened to them was abrupt. It should also be noted that the Respondent was interviewed as part of the ACS ELU investigation resulting from the Complainant's allegations of discrimination.

Since the Respondent's action involve minor physical contact, it would be prudent to warn the Respondent of this behavior so this is not escalated in the future.

**CONCLUSION:**

Therefore, the ACS Office of EEO finds this allegation to be **SUBSTANTIATED**.

**ALLEGATION: SUBSTANTIATED**

**RECOMMENDATION:**

Based on the fact that the allegation is **SUBSTANTIATED** and taking the facts of the matter into account, the ACS Office of EEO recommends a warning letter, signed by the Commissioner, should be sent to the Respondent with a copy to go into his personnel file. A copy of the disposition letter should also be placed into his file.

Dawn Littlejohn 8/7/09  
Dawn Littlejohn, EEO Officer, Date

Tom Trottier 8/7/09  
Thomas Trottier, EEO Investigator, Date



John B. Mattingly  
Commissioner

150 William Street  
18<sup>th</sup> Floor  
New York, NY 10038

212-341-0903 tel  
212-341-0916 fax

August 10, 2009

[REDACTED]  
18 West 30<sup>th</sup> Street, #3  
New York, N.Y. 10001

EEO Case No. 1-09  
Inquiry No. 63-09  
Re: Retaliation Complaint

Dear [REDACTED]

This letter is in reference to the EEO complaint filed by [REDACTED] based on retaliation for an internal EEO complaint she filed with ACS. As you know, the complaint entailed a situation at 60 Lafayette Street.

The outcome of the EEO complaint finds that the allegation made is substantiated, namely that you, the respondent continued to push past her after noticing you had hit her with the door.

I remind you of the importance of demonstrating a healthy attitude of professionalism, respect and courtesy toward staff free from any offensive expression, verbal or physical, which would negatively affect agency performance. I expect that you will rectify any deficiencies in this regard.

Copies of this letter and of the disposition will be placed in your personnel file.

Sincerely,

  
John B. Mattingly  
Commissioner

C: Personnel file

COPY



Administration for  
Children's Services

John B. Mattingly  
Commissioner

150 William Street  
18<sup>th</sup> Floor  
New York, NY 10038

212-341-0903 tel  
212-341-0916 fax

Monday, August 17, 2009  
EEO Case # 1-09  
Inquiry # 63-09

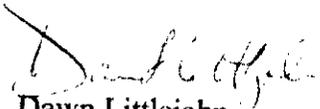
[REDACTED]  
63 May Street  
Irvington, NJ 07111

Re: A. [REDACTED]

Dear [REDACTED]

The Office of Equal Employment Opportunity has conducted an investigation into an allegation, which you filed with this office that alleged that the Respondent hit your foot with a door and pushed by you because of your prior discrimination complaint against superiors. A thorough investigation into this allegation has been conducted and concerned parties interviewed. Based on the findings, the allegation in this case was classified as **SUBSTANTIATED**, **CLOSED AND FILED**. If you have any questions, please feel free to contact the undersigned at (212) 487-8604.

Yours truly,

  
Dawn Littlejohn  
EEO Officer

**NOTE:** It is unlawful to retaliate against or harass any person for filing an EEO Complaint or for cooperating in the investigation of an EEO Complaint. Any employee who engages in such retaliation or harassment shall be disciplined.

COPY



John B. Mattingly  
Commissioner

150 William Street  
18<sup>th</sup> Floor  
New York, NY 10038

212-341-0903 tel  
212-341-0916 fax

Monday, August 17, 2009  
EEO Case # 1-09  
Inquiry # 63-09

[REDACTED]  
18 West 30<sup>th</sup> Street, # 3  
New York, NY 10001

Re: A. [REDACTED]

Dear [REDACTED]

The Office of Equal Employment Opportunity has conducted an investigation into an allegation, which the Complainant filed with this office that alleged that you hit the Complainant's foot with a door and pushed by her because of her prior discrimination complaint against superiors. A thorough investigation into this allegation has been conducted and concerned parties interviewed. Based on the findings, the allegation in this case was classified as **SUBSTANTIATED, CLOSED AND FILED**. If you have any questions, please feel free to contact the undersigned at (212) 487-8604.

Yours truly,

*Dawn Littlejohn*  
Dawn Littlejohn  
EEO Officer

**NOTE:** It is unlawful to retaliate against or harass any person for filing an EEO Complaint or for cooperating in the investigation of an EEO Complaint. Any employee who engages in such retaliation or harassment shall be disciplined.

c. file

COPY

**FOR AGENCY HEAD ONLY**

**(Please check the appropriate box)**

I have reviewed the attached report and refer to the Employment Law Unit for disciplinary proceedings.

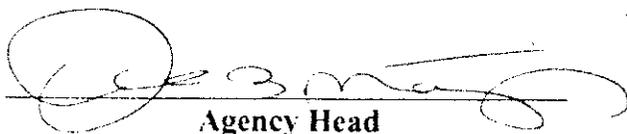
I have reviewed the attached report and agree with the conclusions and recommendations.

I have reviewed the above report and disagree with either the conclusion and/or recommendations contained therein based upon the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following actions shall be taken in this matter:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
Agency Head

8/10/09  
Date



DRAFT

## Guide To Structured Interviewing

Collaboration of  
Office of Equal Employment  
Opportunity  
& Office of Personnel Services



Michael R. Bloomberg  
Mayor

John B. Mattingly  
Commissioner

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## Pointers for Interviewing People with Disabilities

### State and Federal Guides to Pre-Employment Inquiries

1. New York: Recommendations on Employment Inquiries
2. EEOC Guide to Pre-Employment Inquiries
3. EEOC Guidance on Pre-Employment Inquiries  
Under Americans with Disabilities Act